

176
No. 758

IN THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.

TRANSCRIPT OF RECORD.

THE PACIFIC STEAM WHALING COMPANY, CLAIM-
ANT OF THE STEAMSHIP "VALENCIA,"

Appellant,

vs.

JOHN T. GRISMORE, GEORGE C. GRISMORE, ISAAC
R. BIRT, FRANCIS M. WHITE, A. C. PORTER-
FIELD, RICHARD L. LEWIS, CHARLES SCOTT,
(WHOSE TRUE NAME IS CHARLES WELDON),
GEORGE SANDMANN, J. L. KIZSEE, FRANK J.
MURPHY, AND JAMES L. MORRIS,

Appellees.

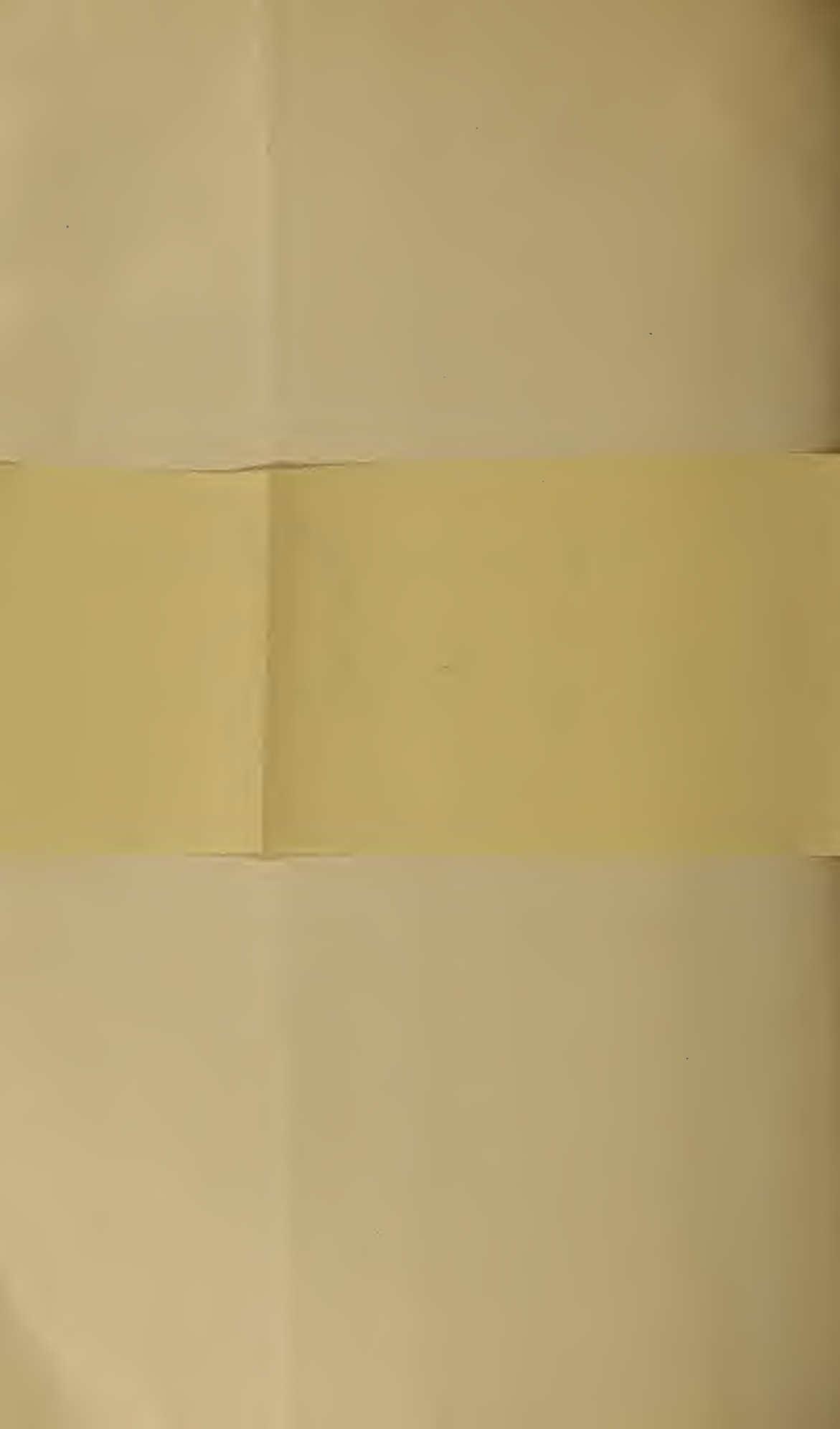
VOL. I.

(Pages 1 to 288, inclusive.)

Appeal from the District Court of the United States
for the District of Washington,
Northern Division.

Records of British
Court of appeals

174



INDEX.

	Page
Answer to Intervening Libel of F. M. White.....	32
Answer to Libel of Isaac R. Birt.....	20
Answer to Libel of John T. Grismore and George C. Grismore.....	11
Answer to Libel of James L. Morris et al.....	43
Appeal, Notice of.....	577
Assignment of Errors.....	579
Causes, Order Consolidating.....	573
Certificate, Clerk's, to Transcript.....	584
Citation.....	586
Claimant's Exhibit No. 1 (Letter Signed by Passen- gers on Board S. S. "Valencia" Commending Cap- tain J. M. Lane for Good Seamanship).....	465
Claimant's Exhibit No. 2 (Letter Signed by Edw. F. Hunter Commending Mr. W. B. Fielding for cour- tesies, etc.).....	467
Claimant's Exhibit No. 3 (Letter Signed by W. E. Ayer Commending Mr. W. B. Fielding for Cour- tesies, etc.).....	468
Clerk's Certificate to Transcript.....	584
Decree.....	574
Deposition of A. B. Brooks.....	509
Deposition of George C. Grismore.....	479
Deposition of Mrs. George C. Grismore.....	487
Deposition of John T. Grismore.....	472

	Page
Deposition of J. M. Lane.....	516
Deposition of J. M. Lane.....	524
Deposition of Dr. Rufus L. McElroy.....	491
Deposition of M. T. McKenna.....	350
Deposition of R. R. Pierson.....	513
Deposition of Mrs. Mary Grismore, Notice as to Tak- ing.....	486
Deposition of John T. Grismore, Notice of Taking...	471
Deposition of Rufus L. McElroy, Notice as to Taking	490
Deposition of George C. Grismore, Stipulation as to.	477
Deposition of George C. Grismore, Stipulation as to Taking.....	476
Deposition of John T. Grismore, Stipulation as to Taking.....	469
Deposition of J. M. Lane, Stipulation as to Taking..	521
Depositions of A. B. Brooks, R. R. Pierson and James M. Lane, Stipulation as to Taking.....	507
Errors, Assignment of.....	579
Exhibit No. 1, Claimant's (Letter Signed by Passen- gers on Board S. S. "Valencia" Commending Cap- tain J. M. Lane for Good Seamanship).....	465
Exhibit No. 2, Claimant's (Letter Signed by Edw. F. Hunter Commending Mr. W. B. Fielding for Cour- tesies, etc.).....	467
Exhibit No. 3, Claimant's (Letter Signed by W. E. Ayer Commending Mr. W. B. Fielding for Courte- sies, etc.).....	468
Exhibit No. 4 (Certificate of Inspection for Passenger Steamers).....	549

	Page
Exhibit No. 5 (Shipping Order).....	547
Exhibits, Stipulation as to Certain.....	560
Intervening Libel of Francis M. White.....	25
Libel, Intervening, of Francis M. White.....	25
Libel, Intervening, of F. M. White, Answer to.....	32
Libel of Isaac R. Birt.....	14
Libel of Isaac R. Birt, Answer to.....	20
Libel of John T. Grismore and George C. Grismore...	7
Libel of John T. Grismore and George C. Grismore, Answer to.....	11
Libel of James L. Morris et al.....	37
Libel of James L. Morris et al., Answer to.....	43
Notice as to Taking Deposition of Mrs. Mary Gris- more.....	486
Notice as to Taking Deposition of Rufus L. McElroy.	490
Notice of Appeal.....	577
Notice of Taking Deposition of John T. Grismore...	471
Opinion.....	565
Order Consolidating Causes.....	573
Order Extending Time to File Transcript.....	2
Plan of Main Fore Deck of Steamer "Valencia"....	555
Proceedings, Statement of.....	3
Statement of Proceedings.....	3
Steamer Ticket, Second-Class.....	562
Stipulation.....	544
Stipulation as to Certain Exhibits..	560
Stipulation as to Deposition of George C. Grismore..	477
Stipulation as to Plan of Main Fore Deck of Steamer "Valencia"....	554

	Page
Stipulation as to Taking Deposition of George C. Grismore.....	476
Stipulation as to Taking Deposition of John T. Grismore.....	469
Stipulation as to Taking Deposition of J. M. Lane..	521
Stipulation as to Taking Depositions of A. B. Brooks, R. R. Pierson and James M. Lane.....	507
Stipulation as to Testimony.....	558
Stipulation as to Testimony of Certain Witnesses..	533
Testimony of Certain Witnesses, Stipulation as to..	533
Testimony, Stipulation as to... ..	558
Testimony on Behalf of Claimant:	
William Brady Fielding.....	418
William Brady Fielding (cross-examination)....	428
M. Houston.. ..	403
M: Houston (cross-examination).....	414
James McRee Lane.....	376
James McRee Lane (cross-examination).....	388
James McRee Lane (redirect examination).....	402
Andrew T. Lowell.....	434
Andrew T. Lowell (cross-examination).....	450
Andrew T. Lowell (redirect examination).....	459
Andrew T. Lowell (recross-examination).....	460
James Shannon.....	339
James Shannon (cross-examination).....	348
F. E. Thyng.	334
F. E. Thyng (cross-examination)	338

	Page
Testimony on Behalf of Libelants:	
Robert Alexander	48
Robert Alexander (cross-examination)	52
I. R. Birt	82, 227
I. R. Birt (cross-examination)	86, 243
Isaac R. Birt (redirect examination)	260
I. R. Birt (recalled—cross-examination)	263
Isaac R. Birt (redirect examination)	263
Lawrence Wilfred Brady	104
Lawrence Wilfred Brady (cross-examination)	112
Lawrence Wilfred Brady (redirect examination)	114
Jacob M. Briggs	64
Jacob M. Briggs (cross-examination)	68
Dr. F. A. Childs	115
Dr. F. A. Childs (cross-examination)	121
William R. Friend	56
William R. Friend (cross-examination)	57
John T. Grismore	175, 265
John T. Grismore (cross-examination)	194, 275
John T. Grismore (redirect examination)	211, 278
John T. Grismore (recross-examination)	279
Thomas Kaine	77
Thomas Kaine (cross-examination)	78
Richard L. Lewis	322
Richard L. Lewis (cross-examination)	329
L. B. McPike	93
L. B. McPike (cross-examination)	95
Arthur C. Porterfield	88, 299
Arthur C. Porterfield (cross-examination)	91, 313
Arthur C. Porterfield (redirect examination)	92, 321

	Page
Testimony on Behalf of Libelants—Continued:	
A. C. Porterfield (recross-examination)	322
Claude L. Roulo	58
Claude L. Roulo (cross-examination)	60
Anthony Sammons	96
Anthony Sammons (cross-examination)	100
Anthony Sammons (redirect examination)	102
T. C. Savage	141
T. C. Savage (cross-examination)	147
Theodore St. Ong	61
Theodore St. Ong (cross-examination)	63
Jacob Wasser	79
Jacob Wasser (cross-examination)	82
C. F. Weldon	69, 280
C. F. Weldon (cross-examination)	76, 271
F. M. White	150
F. M. White (cross-examination)	160
F. M. White (recalled—cross-examination)	212

*In the United States Circuit Court of Appeals for the Ninth
Judicial Circuit.*

JOHN T. GRISMORE et al.,

Libelants,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COM-
PANY,

Claimant.

No. 1,766.

ISAAC R. BIRT et al.,

Libelants,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COM-
PANY,

Claimant.

No. 1,805.

Consolidated.

A. C. PORTERFIELD et al.,

Libelants,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COM-
PANY,

Claimant.

No. 1,845.

Order Extending Time to File Transcript.

Now, on this 5th day of September, 1901, upon motion of Messrs. Gorham & Gorham, proctors for claimant and appellant in the above-entitled causes, consolidated, it is ordered that the time allowed by the rules of the United States Circuit Court of Appeals for the Ninth Circuit for the filing in said court of the record on appeal herein, be, and the same is hereby, extended to and including the 7th day of October, 1901.

C. H. HANFORD,
Judge.

[Endorsed]: No. 788. In the United States Circuit Court of Appeals, Ninth Circuit. Pacific Steam Whaling Co., Claimant, etc., vs. John T. Grismore et al. Order Extending Time to File Record. Filed October 4th, 1901. F. D. Monckton, Clerk.

*In the District Court of the United States for the District of
Washington, Northern Division.*

IN ADMIRALTY.

JOHN T. GRISMORE and GEORGE C.
GRISMORE,

Libelants,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COM-
PANY,

Claimant.

No. 1,766.

ISAAC R. BIRT,

Libelant,

FRANCIS M. WHITE,

Intervenor,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COMPANY,

Claimant.

No. 1,805.

Consolidated.

A. C. PORTERFIELD, RICHARD L. LEWIS, CHARLES SCOTT (Whose True Name is Charles Weldon), GEORGE SANDMANN, J. L. KIZSEE, FRANK J. MURPHY, and JAMES L. MORRIS,

Libelants,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COMPANY,

Claimant.

No. 1,845.

Statement of Proceedings.

Time of Commencement of the Suits.

Cause No. 1766: August 7, 1900.

Cause No. 1805: September 17, 1900.

Cause No. 1845: October 29, 1900.

Names of the Original Parties to the Suits.

Cause No. 1766: Libelants—John T. Grismore and George C. Grismore. Respondent—Steamship “Valencia,” her boilers and machinery, tackle, apparel and furniture. Claimant—Pacific Steam Whaling Company, as owner of the respondent, Steamship “Valencia.”

Cause No. 1805: Libelant—Isaac R. Birt. Intervenor—Francis M. White. Respondent—Steamship “Valencia,” her boilers and machinery, tackle, apparel and furniture. Claimant—Pacific Steam Whaling Company, owner of the respondent, Steamship “Valencia.”

Cause No. 1845: Libelants—A. C. Porterfield, Richard L. Lewis, Charles Scott (whose true name is Charles Weldon), George Sandmann, J. L. Kizsee, Frank J. Murphy and James L. Morris. Respondent—Steamship “Valencia,” her boilers and machinery, tackle, apparel and furniture. Claimant—Pacific Steam Whaling Company, as owner of the respondent, Steamship “Valencia.”

Dates of the Filing of the Pleadings.

Cause No. 1766: Libel, filed August 7, 1900. Claim of Pacific Steam Whaling Company, filed August 8, 1900. Answer of claimant, filed August 23, 1900.

Cause No. 1805: Libel, filed September 17, 1900. Claim of Pacific Steam Whaling Company, filed September 18, 1900. Answer of claimant, filed February 6, 1901. Intervening libel of F. M. White, filed September 19, 1900. Claim of Pacific Steam Whaling Company, filed September 19, 1900. Answer of claimant, filed February 6, 1901.

Cause No. 1845: Libel, filed October 29, 1900. Claim of Pacific Steam Whaling Company, filed October 29, 1900. Answer of claimant, filed February 6, 1901.

Attachment of Property, and Proceedings Thereunder.

Cause No. 1766: In this case the respondent, Steamship "Valencia," was attached and taken into custody by the United States marshal, under monition and attachment issued therein, on the 7th day of August, 1900, and was thereafter and on the 8th day of August, 1900, released and returned to the claimant in said cause, upon the filing of a claim therefor, and stipulation for costs and bond for release and return, duly approved.

Cause No. 1805: In this case, on the libel of Isaac R. Birt, libelant therein, the respondent, Steamship "Valencia," was attached and taken into custody by the United States marshal, under monition and attachment issued therein, on the 17th day of September, 1900, and was thereafter and on the 18th day of September, 1900, released and returned to the claimant in said cause, upon the filing of a claim therefor, and stipulation for costs and bond for release and return, duly approved.

In this case, on the libel of Intervenor, Francis M. White, the respondent, Steamship "Valencia," was attached and taken into custody by the United States marshal, upon monition and attachment issued therein, on the 19th day of September, 1900, and was thereafter, and on said 19th day of September, 1900, released and returned to the claimant in said cause, upon the filing of a claim therefor, and stipulation for costs and bond for release and return, duly approved.

Cause No. 1845: In this case the respondent, Steamship "Valencia," was attached and taken into the custody of the United States marshal, under monition and attachment issued therein, on the 29th day of October, 1900, and was thereafter and on the said 29th day of October, 1900, released and returned to the claimant in said cause, upon the filing of a claim therefor, and stipulation for costs and bond for release and return, duly approved.

Trial.

The above-entitled consolidated causes, by mutual consent of the parties thereto and permission of the Court, were on the 21st day of February, 1901, submitted to the Honorable C. H. Hanford, United States District Judge, District of Washington, for decision.

Reference to Commissioner.

An order referring the above-entitled cause to A. C. Bowman, Esq., United States Commissioner, to take testimony and report the same to the Court, was made in said cause No. 1766 on August 30, 1900; and the report of said commissioner was filed in this court on the 19th day of December, 1900.

Final Decree.

The final decree was made and entered in the above-entitled consolidated causes on the 5th day of August, 1901.

Notice of Appeal.

Notice of appeal was filed by the claimant Pacific Steam Whaling Company, from the final decree entered in said consolidated causes on the 9th day of August, 1901.

*In the United States District Court, for the District of Wash-
ington, in and for the Northern Division of said District.*

JOHN T. GRISMORE and GEORGE C.
GRISMORE,

Libelants,

vs.

Steamship "VALENCIA,"

Respondent,

No. 1,766.

Libel of John T. Grismore and George C. Grismore.

To the Honorable C. H. HANFORD, Judge of the said
United States District Court in and for the said
Northern Division, District of Washington, Sitting
in Admiralty.

The libel and complaint of John T. Grismore and
George C. Grismore, late passengers on board the Ameri-
can steamship "Valencia," whereof ——— Lane is now,
or lately was, master, against the said steamship "Va-
lencia," her boilers, and machinery, tackle, apparel and
furniture, and against all persons lawfully intervening
for their interests therein, in a cause of damages, civil
and maritime, alleges as follows:

I.

That on or about the 26th day of May, 1900, the said
vessel, whereof the said ——— Lane now is, or lately
was, master, being then in the port of San Francisco,

California, and destined from thence to Cape Nome, in Alaska, libelants embarked on board said vessel as second-class passengers, and paid their passage money from said port of San Francisco to said port of Cape Nome, to wit, the sum of seventy-five dollars (\$75.00) each; in consideration whereof the said master, on behalf of the said vessel and her owners, undertook and promised to convey libelants, with all reasonable dispatch, from said port of San Francisco to said port of Cape Nome; and to furnish libelants with good accommodations during said voyage; and it was understood and agreed that libelants, as second-class passengers, were to be furnished with good and comfortable berths and to have their victuals served in the second cabin, which victuals were to be of a good quality of food and sufficient for the purposes and uses of libelants as second-class passengers during said voyage; and said master further said that the food to be furnished the second-class passengers would be equal to that furnished the first-class passengers.

II.

That libelants embarked on said vessel, as aforesaid, on or about the 26th day of May, 1900, and continued on board said vessel during her said voyage, which ended at Cape Nome on or about the 17th day of June, 1900.

III.

That shortly after the sailing of said vessel from said port of San Francisco libelants were assigned quarters in the steerage of said vessel, which said quarters were assigned to libelants under their protest; but libelants

were forced to and compelled to remain in said steerage quarters notwithstanding their protests; and that said accommodations in said steerage were insufficient and inadequate and not such as they had bargained for; and that the food furnished libelants in said steerage was of a poor quality and of an insufficient quantity, and not such as was furnished the first-class passengers; and that the meat furnished libelants in said steerage was spoiled and unfit to eat; and that libelants suffered great want, of hunger and thirst, to the great injury of their health and the deprivation of the comforts that they were entitled to as second-class passengers, and that by reason of the failure of said master to comply with his agreements with libelants, libelants suffered in health and in mind, and were caused great mental pain and worry, to their injury and damage in the sum of one thousand dollars (\$1,000.00) each, making a total of two thousand dollars (\$2,000.00).

That all and singular the above premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

Wherefore, libelants pray that process of attachment in due form of law, according to the course of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against the said steamship "Valencia," her boilers and machinery, tackle, apparel and furniture, and that said ——— Lane, master, and all other persons having or pretending to have any right, title or interest therein, may be cited to appear and answer all and singular the matters and things herein alleged; and that this Honorable Court would be pleased to pronounce for

*In the United States District Court, for the District of Wash-
ington, Northern Division.*

IN ADMIRALTY.

JOHN T. GRISMORE and GEORGE C.
GRISMORE,

Libelants,

vs

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COM-
PANY,

Claimant.

No. 1,766.

Answer to Libel of John T. Grismore and George C. Grismore.

To the Honorable C. H. HANFORD, Judge of the Above-
entitled Court, Sitting in Admiralty.

The answer of the Pacific Steam Whaling Company,
the above-named claimant, to the libel of John T. Gris-
more and George C. Grismore, in a cause of damage, civil
and maritime, alleges as follows:

I.

It admits the allegations contained in the first para-
graph of said libel excepting the allegation that libel-
ants were to have their victuals served in the second
cabin, which it denies; and excepting the allegation that
the said master said that the food to be furnished the
second-class passengers would be equal to that furnished
the first-class passengers, which it denies.

II.

It admits the allegations contained in the second paragraph of said libel.

III.

It denies each and every allegation contained in the third paragraph of said libel except as hereinafter specified, and it denies that said libelants, or either of either of them, were injured or damaged in the sum of one thousand dollars each, or in any sum whatever.

IV.

And claimant further answering said libel alleges:

That on or about the 26th day of May, 1900, the said steamship "Valencia" owned and operated by claimant in the transportation of freight and passengers between ports in the State of California and the State of Washington, and ports in Alaska, was bound on a voyage from the port of San Francisco to the port of Nome, Alaska, via the port of Seattle, with a general cargo and a list of about five hundred first and second-class passengers; that said vessel was properly and sufficiently supplied and provisioned and equipped for said voyage and for the accommodation of said passengers, including said libelants.

V.

That during said voyage and until said vessel arrived at Nome, Alaska, said libelants, and each of them, were properly and sufficiently fed, and were furnished with all the accommodations, including food and comfortable berths, which they were entitled to as second-class pas-

sengers; and that at all times during said voyage this claimant and the master and officers of said vessel cared for and looked after the comfort of all of said passengers, including said libelants.

All and singular the premises are true.

Wherefore, claimant prays that the Court would be pleased to pronounce against said libel to condemn libelants in costs, and otherwise right and justice to administer in the premises.

PACIFIC STEAM WHALING COMPANY,

Claimant.

GORHAM & GORHAM,

Proctors for Claimant.

United States of America, }
District of Washington. } ss.

Austin Claiborne, being first duly sworn on oath, says: That he is the agent of claimant in the above-entitled action; that he has heard the foregoing answer read, knows the contents thereof, and believes the same to be true; that he makes this affidavit because _____

AUSTIN CLAIBORNE.

Subscribed and sworn to before me this 22d day of August, A. D. 1900.

W. H. GORHAM,
Notary Public in and for Washington, Residing in
Seattle.

Due service of the within answer by copy hereby acknowledged this 22d day of August, 1900.

P. P. CARROLL,
Proctor for Libelants.

[Endorsed]: Answer. Filed in the United States District Court, District of Washington. August 23, 1900. R. M. Hopkins, Clerk. A. N. Moore, Deputy.

In the United States District Court, for the District of Washington, in and for the Northern Division of said District.

ISAAC R. BIRT,

Libelant,

vs.

No. 1,805.

Steamship "VALENCIA,"

Respondent,

Libel of Isaac R. Birt.

To the Honorable C. H. HANFORD, Judge of the said United States District Court, in and for the said Northern Division, District of Washington, Sitting in Admiralty.

The libel and complaint of Isaac R. Birt, late passenger on board the American steamship "Valencia," whereof ——— Lane is now, or lately was, master, against the said steamship "Valencia," her boilers and machinery, tackle, apparel and furniture, and against all persons lawfully intervening for their interests therein, in a cause of damages, civil and maritime, alleges as follows:

I.

That on or about the 26th day of May, 1900, the said vessel whereof the said ——— Lane now is, or lately was, master, being then in the port of San Francisco, California, and destined from thence to Cape Nome, in Alaska, libelant embarked on board said vessel as a second-class passenger, and paid his passage money from said port of San Francisco to said port of Cape Nome, to wit, the sum of seventy-five dollars (\$75.00), in consideration whereof the said master, on behalf of the said vessel and her owners, undertook and promised to convey libelants, with all reasonable dispatch, from said port of San Francisco to said port of Cape Nome, and to furnish libelant with good accommodations during said voyage; and it was understood and agreed that libelant, as a second-class passenger, was to be furnished with a good and comfortable berth and to have his victuals served same as in the first cabin, which victuals were to be of a good quality of food and sufficient for the purposes and uses of libelant as a second-class passenger during said voyage; and said master further said that the food to be furnished the second-class passengers would be equal to that furnished to the first-class passengers.

II.

That libelant embarked on said vessel, as aforesaid, on or about the 26th day of May, 1900, and continued on board said vessel during her said voyage which ended at Cape Nome on or about the 17th day of June, 1900.

III.

That shortly after the sailing of said vessel from said port of San Francisco libelant was assigned quarters in the steerage of said vessel, which said quarters were assigned to libelant under his protest; but libelant was forced to and compelled to remain in said steerage quarters notwithstanding his protests; and that said accommodations in said steerage were insufficient and inadequate, and not such as libelant had bargained for; and that the food furnished libelant in said steerage was of a poor quality and of an insufficient quantity, and not such as was furnished the first-class passengers; and that the meat furnished libelant in said steerage was spoiled and unfit to eat; and that libelant suffered great want of hunger and thirst, to the great injury of his health and the deprivation of the comforts that he was entitled to as a second-class passenger; and that by reason of the failure of said master to comply with his agreement with libelant, libelant suffered in health and in mind and was caused great mental pain and worry, to his injury and damage in the sum of one thousand dollars (\$1,000.00).

IV.

That at the time aforesaid, to wit, on or about the 26th day of May, 1900, while the said vessel was in the said port of San Francisco, libelant shipped on said vessel, and said vessel took on board, freight and baggage for libelant, and for which libelant paid freight in the sum of fifty-two and no-100 dollars (\$52.00); and that said freight and baggage was to be carried by said vessel to

the said port of Cape Nome and there to be delivered, upon the arrival of said vessel at said port of Cape Nome, to libelant in good condition; and that said freight and baggage was put on board said vessel at said port of San Francisco, and that said vessel arrived at said port of Cape Nome on or about the 17th day of June, as aforesaid; but that said freight was not delivered upon the arrival, as aforesaid, of the said vessel at the said port of Cape Nome; but was by said vessel wrongfully detained thereon for a space of ten (10) days or more, and that during said time said vessel carried said freight and baggage from said port of Cape Nome to Golofnin Bay, in Alaska, and from said Golofnin Bay to Cape York, in Alaska, and from said Cape York back to Nome, a distance of over four (400) hundred miles.

V.

That libelant is crippled in his left leg and moves with difficulty; but at the time of his going aboard said vessel for said voyage from the port of San Francisco to the port of Cape Nome libelant was in good and, with the exception of the defect heretofore mentioned, sound health.

VI.

That said freight and baggage was composed in part of a dredging machine, lumber and material for the framing and working thereof, and tent and material for the housing of libelant and his protection from the elements, and provisions for his maintenance and support, and of the maintenance and support of those he might employ; and that by the reason of the failure of said ves-

sel and the owners and master thereof to deliver said freight and baggage at the said port of Cape Nome at the time of the arrival there of the said vessel, as aforesaid, libelant was deprived of the use and profit thereof, and being unable to get accommodations, was compelled to sleep in the open air and exposed to the fog, dampness, and the inclemency thereof, which exposure produced sickness, great mental and bodily pain and suffering, and hardships to libelant, and which said suffering, hardship, and pain were caused by the negligent, indifferent, and wrongful acts of the said master; and that by reason of said wrongful acts of the said master and the said vessel libelant was deprived of provisions and supplies for his comfort and maintenance for the space of ten (10) days and more, and was compelled to secure provisions at great inconvenience and expense, amounting to over one hundred dollars (\$100.00); and that by reason of said negligent, careless, and wrongful act of the said master and the said vessel libelant was unable to make use of his said machine and freight, and was caused loss and damage in the sum of five hundred dollars (\$500.00).

VII.

That by reason of the acts hereinabove and before complained of libelant has suffered sickness and distress, and has been caused great mental and bodily pain and suffering, and libelant has been permanently incapacitated and deprived of the means of earning a livelihood, whereby libelant has been injured and damaged in the sum of ten thousand dollars (\$10,000.00).

That all and singular the above premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

Wherefore, libelant prays that process of attachment in due form of law, according to the course of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against the said steamship "Valencia," her boilers and machinery, tackle, apparel, and furniture; and that said ——— Lane, master, and all other persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters and things herein alleged; and that this Honorable Court would be pleased to pronounce for the damages aforesaid, with costs, and that the said steamship "Valencia," her boilers and machinery, tackle, apparel and furniture, may be condemned and sold to pay the same, and that the Court will grant libelant such other and further relief as shall to law and justice appertain.

ISAAC R. BIRT,
Libelant.

P. P. CARROLL,
Proctor for Libelant.

United States of America, }
District of Washington. } ss.

Isaac R. Birt, being first duly sworn, on oath says: That he is the libelant in the above-entitled action; that he has heard the foregoing libel read, knows the contents thereof, and believes the same to be true.

ISAAC R. BIRT.

Subscribed and sworn to before me this 27th day of August, A. D. 1900.

[Notarial Seal] P. P. CARROLL,
Notary Public in and for Washington, Residing at
Seattle.

[Endorsed]: Libel. Filed in the United States District Court, District of Washington. September 17, 1900.
R. M. Hopkins, Clerk. A. N. Moore, Deputy.

In the United States District Court, for the District of Washington, Northern Division.

IN ADMIRALTY.

ISAAC R. BIRT,

Libelant,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COMPANY,

Claimant.

No. 1,805.

Answer to Libel of Isaac R. Birt.

To the Honorable C. H. HANFORD, Judge of the Above-entitled Court:

The answer of the Pacific Steam Whaling Company, the above-named claimant to the libel of Isaac R. Birt, in a cause of damage, civil and maritime, alleges as follows:

I.

It admits all the allegations contained in the first paragraph of said libel excepting the allegations that the master of said vessel undertook or promised any matter or thing relative to libelant, or that it was understood and agreed that libelant was to have his victuals served the same as in the first cabin, or that the master of said vessel said that the food to be furnished the second-class passengers would be equal to that furnished the first-class passengers, all of which it denies.

II.

It admits the allegations contained in the second paragraph of said libel.

III.

It denies each and every allegation contained in the third paragraph of said libel, except as hereinafter specially admitted, and it denies that the libelant has suffered in health and in mind, and denies that he was caused great mental pain and worry to his injury and damage in the sum of one thousand dollars, or in any sum whatever, or at all.

IV.

Answering the fourth paragraph of said libel, it admits all of the allegations therein contained, except the allegations that said freight was not delivered upon the arrival of said vessel at Cape Nome, but was wrongfully detained by said vessel for a space of ten days or more, and during said time said vessel carried said freight and

baggage from Cape Nome to Golofnin Bay, to Cape York and back to Cape Nome, all of which it denies.

V.

It denies any knowledge or information sufficient to form a belief as to the allegations contained in the fifth paragraph of said libel, and demands proof of same if material.

VI.

It denies each and every allegation contained in the sixth paragraph of said libel, except as hereinafter specially admitted, and denies that by reason of the matters and things alleged in said sixth paragraph libelant was compelled to secure provisions at an expense of one hundred dollars or of any sum whatever, or was caused loss and damage in the sum of five hundred dollars, or in any other sum whatever, or at all.

VII.

It denies each and every allegation contained in the seventh paragraph of said libel, and denies that libelant has been injured and damaged in the sum of ten thousand dollars, or in any other sum whatever, by reason of the matters or things alleged in said libel, or at all.

Claimant further answering said libel, alleges:

VIII.

That on or about the 26th day of May, 1900, the said steamship "Valencia," owned and operated by claimant in the transportation of freight and passengers between ports in the State of California and the State of Washington and ports in Alaska, was bound on a voyage from

the port of San Francisco to the port of Nome, Alaska, via the port of Seattle, with a general cargo and a list of about six hundred first and second-class passengers; that said vessel was properly and sufficiently supplied, provisioned, equipped, furnished, and manned for said voyage, and for the accommodations of said passengers, including said libelant.

IX.

That during said voyage said libelant was properly and sufficiently fed, and was furnished with sufficient water and all the accommodations, including a good and comfortable berth, which he was entitled to as a second-class passenger, and that at all times during said voyage this claimant and the master, officers, and crew of said vessel, cared for and looked after the comfort of said passengers, including libelant, to the best of their ability.

XII.

That the freight and baggage shipped by libelant on board said steamer as set forth in said libel was delivered by claimant to libelant at Cape Nome as soon after the arrival of said vessel as the conditions of the weather and sea in the open roadstead at Cape Nome would permit.

That all and singular the premises are true.

Wherefore, the claimant prays that the Court would be pleased to pronounce against said libel; condemn libelant in costs and otherwise right and justice to administer in the premsies.

GORHAM & GORHAM,

Proctors for Claimant.

United States of America, }
District of Washington. } ss.

A. Claiborne, being first duly sworn, on oath, says: That he is the agent for claimant in the above-entitled action; that he has heard the foregoing answer read, knows the contents thereof, and believes the same to be true.

AUSTIN CLAIBORNE.

Subscribed and sworn to before me this 6th day of February A. D. 1901.

W. H. GORHAM,
Notary Public in and for Washington, Residing at
Seattle.

Due service of the within answer by copy hereby acknowledged this 6th day of February, A. D. 1901.

P. P. CARROLL,
Proctor for Libelant.

[Endorsed]: Answer to Libel of I. R. Birt. Filed in the United States District Court, District of Washington. February 6, 1901. R. M. Hopkins, Clerk. A. N. Moore, Deputy.

In the United States District Court, for the District of Washington, in and for the Northern Division of said District.

ISAAC R. BIRT,

Libelant,

vs.

Steamship "VALENCIA,"

Respondent,

FRANCIS M. WHITE,

Intervening Libelant.

No. 1,805.

Intervening Libel of Francis M. White.

To the Honorable C. H. HANFORD, Judge of the said United States District Court, in and for the said Northern Division, District of Washington, Sitting in Admiralty.

The intervening libel and complaint of Francis M. White, late passenger on board the American Steamship "Valencia," whereof J. M. Lane is now, or lately was, master, against the said steamship "Valencia," her boilers, and machinery, tackle, apparel, and furniture, and against all persons lawfully intervening for their interests therein in a cause of damages, civil and maritime, alleges as follows:

I.

That on or about the 26th day of May, 1900, the said vessel, whereof the said J. M. Lane now is, or lately was,

master, being then in the port of San Francisco, California, and destined from thence to Cape Nome, in Alaska, intervening libelant embarked on board said vessel as a second-class passenger and paid his passage money from said port of San Francisco to said port of Cape Nome, to wit, the sum of seventy-five dollars (\$75.00), in consideration whereof the said master, on behalf of the said vessel and her owners, undertook and promised to convey libelant, with all reasonable dispatch, from said port of San Francisco to said port of Cape Nome, and to furnish intervening libelant with good accommodations during said voyage; and it was understood and agreed that intervening libelant, as a second-class passenger, was to be furnished with a good and comfortable berth, and to have his victuals served the same as in the first cabin, which victuals were to be of good quality of food and sufficient for the purposes and uses of libelant as a second-class passenger during said voyage; and that said master further said that the food to be furnished the second-class passengers would be equal to that furnished the first-class passengers.

II.

That intervening libelant embarked on said vessel, as aforesaid, on or about the 26th day of May, 1900, and continued on board said vessel during her said voyage, which ended at Cape Nome on or about the 17th day of June, 1900.

III.

That shortly after the sailing of said vessel from said port of San Francisco intervening libelant was assigned

quarters in the steerage of said vessel which said quarters were assigned to libelant under his protest; but intervening libelant was forced to and compelled to remain in said steerage quarters notwithstanding his protests; and that said accommodations in said steerage were insufficient and inadequate, and not such as libelant had bargained for; and that the food furnished intervening libelant in said steerage was of a poor quality and of an insufficient quantity, and not such as was furnished the first-class passengers; and that the meat furnished intervening libelant in said steerage was spoiled and unfit to eat; and that intervening libelant suffered great want from hunger and thirst, to the great injury of his health and the deprivation of the comforts that he was entitled to as a second-class passenger; and that by reason of the failure of said master to comply with his agreement with intervening libelant, intervening libelant suffered in health and in mind, and was caused great mental pain and worry, to his injury and damage in the sum of one thousand dollars (\$1,000.00).

IV.

That at the time aforesaid, to wit, on or about the 26th day of May, 1900, while said vessel was in the said port of San Francisco, libelant shipped on said vessel, and said vessel took on board, freight and baggage for libelant, and for which libelant paid freight in the sum of fifty-two dollars (\$52.00); and that said freight and baggage was to be carried by said vessel to the said port of Cape Nome and there to be delivered, upon the arrival of said vessel at said port of Cape Nome, to intervening li-

belant in good condition; and that said freight and baggage was put on board said vessel at said port of San Francisco, and that said vessel arrived at said port of Cape Nome on or about the 17th day of June, as aforesaid; but that said freight was not delivered upon the arrival, as aforesaid, of the said vessel at the said port of Cape Nome, but was by said vessel wrongfully detained thereon for a space of ten (10) days or more, and that during said time said vessel carried said freight and baggage from said port of Cape Nome to Golofnin Bay, in Alaska, and from said Golofnin Bay to Cape York, in Alaska, and from said Cape York back to Nome, a distance of over four (400) hundred miles.

V.

That at the time intervening libelant went aboard said vessel for said voyage from the port of San Francisco to the port of Cape Nome he was in good and sound health.

VI.

That said freight and baggage was composed in part of a dredging machine, lumber and material for the framing and working thereof, and tent and material for the housing of intervening libelant and his protection from the elements and provisions for his maintenance and support, and of the maintenance and support of those he might employ; and that by reason of the failure of said vessel and the owners and master thereof to deliver said freight and baggage at the said port of Cape Nome at the time of the arrival there of the said vessel, as aforesaid, intervening libelant was deprived of the use and

profit thereof, and being unable to get accommodations, was compelled to sleep in the open air and exposed to the fog, dampness, and the inclemency thereof, which exposure produced sickness, great mental and bodily pain and suffering, and hardships to intervening libelant, and which said suffering, hardships and pain were caused by the negligent, indifferent, and wrongful acts of the said master; and that by reason of the said wrongful acts of the said master and the said vessel, libelant was deprived of provisions and supplies for his comfort and maintenance for the space of ten (10) days and more, and was compelled to secure provisions at great inconvenience and expense, amounting to over one hundred dollars (\$100.00); and that by reason of said negligent, careless, and wrongful act of the said master and the said vessel intervening libelant was unable to make use of his said machine and freight, and was caused loss and damage in the sum of five hundred dollars (\$500.00).

That by reason of the acts hereinabove and before complained of intervening libelant has suffered sickness and distress and has been caused great mental and bodily pain and suffering, and libelant has been permanently incapacitated and deprived of the means of earning a livelihood, whereby intervening libelant has been injured and damaged in the sum of five thousand dollars (\$5,000).

That said vessel has been attached by the marshal, under process issuing out of this court, upon the libel of Isaac R. Birt for damages, and that she still remains in the custody of the marshal.

That all and singular the above premises are true, and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

Wherefore, your petitioner prays that he may be allowed to intervene in the said cause for his damages, and that process of attachment, in due form of law, according to the course of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against the said steamship "Valencia," her boilers and machinery, tackle, apparel, and furniture; and that said J. M. Lane master, and all other persons having or pretending to have any right, title, and interest therein, may be cited to appear and answer all and singular the matters and things herein alleged; and that this Honorable Court would be pleased to pronounce for the damages aforesaid with costs, and that the said steamship "Valencia," her boilers and machinery, tackle, apparel, and furniture, may be condemned and sold to pay the same, and that the Court will grant libellant such other and further relief as shall to law and justice appertain.

FRANCIS M. WHITE,

Intervening Libellant.

P. P. CARROLL,

Proctor for Intervening Libellant.

United States of America, }
District of Washington. } ss.

Francis M. White, being first duly sworn, on oath says: That he is the intervening libelant in the above-entitled action; that he has heard the foregoing petition read, knows the contents thereof, and believes the same to be true.

FRANCIS M. WHITE.

Subscribed and sworn to before me this 18th day of September, A. D. 1900.

[Notarial Seal]

W. W. BLACK,

Notary Public in and for Washington, Residing at Everett, Washington.

[Endorsed]: Intervening Libel. Filed in the United States District Court, District of Washington, September 19, 1900. R. M. Hopkins, Clerk. H. M. Walthew, Deputy.

*In the United States District Court, for the District of Wash-
ington, Northern Division.*

IN ADMIRALTY.

ISAAC R. BIRT,

Libelant,

F. M. WHITE,

Intervening Libelant,

vs.

Steamship "VALENCIA,"

Respondent.

PACIFIC STEAM WHALING COM-
PANY,

Claimant.

No. 1.805.

Answer to Intervening Libel of F. M. White.

To the Honorable C. H. HANFORD, Judge of the Above-
entitled Court:

The answer of the Pacific Steam Whaling Company, the above-named claimant, to the intervening libel of F. M. White, in a cause of damage, civil and maritime, alleges as follows:

I.

It admits the allegations contained in the first paragraph of said intervening libel, except the allegations that the master of said vessel undertook or promised any matter or thing relative to intervening libelant, or

that it was understood and agreed that intervening libelant was to have his victuals served the same as in the first cabin, or that the master of said vessel said that the food to be furnished the second-class passengers would be equal to that furnished the first-class passengers, all of which it denies.

II.

It admits the allegations contained in the second paragraph of said intervening libel.

III.

It denies each and every allegation contained in the third paragraph of said intervening libel, except as hereinafter specially admitted and denies that said intervening libelant suffered in health and in mind, and was caused great mental pain and worry, to his injury and damage in the sum of one thousand dollars, or in any sum whatever, or at all.

IV.

It admits the allegations contained in said fourth paragraph of said intervening libel, except the allegations that said freight was not delivered upon the arrival of said vessel at Cape Nome, but was wrongfully detained by said vessel for a space of ten days or more, and during said time said vessel carried said freight and baggage from Cape Nome to Golofnin Bay, to Cape York and back to Cape Nome, all of which it denies.

V.

It denies any knowledge or information sufficient to form a belief as to the allegations contained in the fifth

paragraph of said intervening libel, and demands proof of the same if material.

VI.

It denies the allegations contained in the sixth paragraph of said intervening libel, and denies that said intervening libelant was compelled to secure provisions at an expense of one hundred dollars or of any sum whatever, or was caused loss and damage in the sum of \$500 or in any sum whatever, and denies that by reason of the matters and things alleged in said intervening libel that said intervening libelant has suffered sickness and distress, and has been caused great or any mental and bodily pain and suffering, and has been permanently or at all incapacitated and deprived of the means of earning a livelihood, and denies that thereby said intervening libelant is injured and damaged in the sum of \$5,000, or in any sum whatever, or at all.

And claimant further answering said intervening libel alleges:

VII.

That on or about the 26th day of May, 1900, the said steamship "Valencia" owned and operated by claimant in the transportation of freight and passengers between ports in the State of California and the State of Washington and ports in Alaska was bound on a voyage from the port of San Francisco to the port of Nome, Alaska, via the port of Seattle, with a general cargo and a list of about six hundred first and second-class passengers; that said vessel was properly and sufficiently supplied, provisioned, equipped, furnished, and manned for said voy-

age, and for the accommodations of said passengers, including said libelant.

VIII.

That during said voyage said libelant was properly and sufficiently fed and was furnished with sufficient water and all the accommodations, including a good and comfortable berth, which he was entitled to as a second-class passenger, and that at all times during said voyage this claimant, and the master, officers, and crew of said vessel, cared for and looked after the comfort of said passengers, including intervening libelant, to the best of their ability.

IX.

That the freight and baggage shipped by intervening libelant on board said steamer as set forth in said intervening libel was delivered by claimant to intervening libelant at Cape Nome, as soon after the arrival of said vessel as the conditions of the weather and sea in the open roadstead at Cape Nome would permit.

That all and singular the premises are true.

Wherefore, the claimant prays that the Court would be pleased to pronounce against said intervening libel, condemn intervening libelant in costs, and otherwise right and justice administer in the premises.

GORHAM & GORHAM,

Proctors for Claimant.

United States of America, }
District of Washington. } ss.

A. Claiborne, being first duly sworn, on oath says: That he is the agent of claimant in the above-entitled action; that he has heard the foregoing answer read, knows the contents thereof, and believes the same to be true.

AUSTIN CLAIBORNE.

Subscribed and sworn to before me this 6th day of February, A. D. 1901.

W. H. GORHAM,
Notary Public in and for Washington, Residing at Seattle.

Due service of the within answer by copy hereby acknowledged this 6th day of February, 1901.

P. P. CARROLL,
Proctor for Libelant.

[Endorsed]: Answer to Libel of F. M. White. Filed in the United States District Court, District of Washington, February 6, 1901. R. M. Hopkins, Clerk. A. N. Moore, Deputy.

In the United States District Court, for the District of Washington, in and for the Northern Division of said District.

A. C. PORTERFIELD, GEORGE SANDMANN, J. L. KIZSEE, JAMES L. MORRIS, FRANK J. MURPHY, RICHARD L. LEWIS and CHAS. SCOTT,	}	No. 1845.
Libelants,		
vs.		
Steamship "VALENCIA,"	}	
Respondent.		

Libel of James L. Morris et al.

To the Honorable C. H. HANFORD, Judge of the said United States District Court, in and for the said Northern Division, District of Washington, Sitting in Admiralty.

The libel and complaint of James L. Morris, Frank J. Murphy, A. C. Porterfield, Geo. Sandmann, Richard L. Lewis and Chas. Scott, J. L. Kizsee, late passengers on board the American steamship "Valencia," whereof ——— Lane is now, or lately was, master, against the said steamship "Valencia," her boilers and machinery, tackle, apparel and furniture, and against all persons lawfully intervening for their interests therein, in a cause for damages, civil and maritime, alleges as follows, to wit:

I.

That on or about the 26th day of May, 1900, the said vessel, whereof the said ——— Lane now is, or lately was, master, being then in the port of San Francisco, California, and destined from thence to Cape Nome, in Alaska, libelants embarked on board said vessel as second-class passengers, and paid their passage money from said port of San Francisco to said port of Cape Nome, to wit, the sum of seventy-five dollars (\$75.00) each, in consideration whereof the said master, on behalf of the said vessel and her owners, undertook and promised to convey libelants, with all reasonable dispatch, from said port of San Francisco to said port of Cape Nome; and to furnish libelants with good accommodations during said voyage; and it was understood and agreed that libelants, as second-class passengers, were to be furnished with good and comfortable berths, and to have their victuals served in the second cabin, which victuals were to be of a good quality of food and sufficient for the purposes and uses of libelants as such second-class passengers during said voyage; and said master further said that the food to be furnished the second-class passengers would be equal to that furnished the first-class passengers.

II.

That libelants embarked on said vessel, as aforesaid, on or about the 26th day of May, 1900, and continued on board said vessel during her said voyage, which ended at Cape Nome on or about the 17th day of June, 1900.

III.

That shortly after the sailing of said vessel from said port of San Francisco libelants were assigned quarters in the steerage of said vessel, which said quarters were assigned to libelants under their protest; but libelants were forced and compelled to remain in said steerage quarters notwithstanding their protests; and that said accommodations in said steerage were insufficient and inadequate and not such as they had bargained for; and that the food furnished libelants in said steerage was of a poor quality and of an insufficient quantity, and not such as was furnished the first-class passengers; and that the meat furnished libelants in said steerage was spoiled and unfit to eat; and that libelants suffered great want of hunger and thirst, to the great injury of their health and the deprivation of the comforts that they were entitled to as second-class passengers; and that by reason of the failure of said master to comply with his agreements with libelants, libelants suffered in health and in mind, and were caused great mental pain and worry, to their injury and damage in the sum of five hundred dollars (\$500.00) each.

IV.

That at the time aforesaid, to wit, on or about the 26th day of May, 1900, while the said vessel was in the said port of San Francisco, libelants shipped on said vessel, and said vessel took on board, freight and baggage and freight for libelants, and for which libelants paid freight in the sums of ten dollars (\$10.00); and that said freight and baggage was to be carried by said vessel to the said

port of Cape Nome, and there to be delivered to libelants, in good condition, upon the arrival of said vessel at said port of Cape Nome; and that said freight and baggage was put on board said vessel at said port of San Francisco, and that said vessel arrived at said port of Cape Nome, on or about the 17th day of June, as aforesaid; but that said freight and baggage was not delivered upon the arrival as aforesaid, of the said vessel at the said port of Cape Nome; but was by said vessel wrongfully detained thereon for a space of ten (10) days or more, and that during said time said vessel carried said freight and baggage from said port of Cape Nome to Golofnin Bay, in Alaska, and from said Golofnin Bay to Cape York, in Alaska; and from said Cape York back to Nome, a distance of over four hundred miles.

V.

That said freight and baggage was composed in part of tents and materials for the housing of libelants, and for their protection from the elements and provisions for their maintenance and support, and for the maintenance and support of those they might employ; and that by reason of the failure of said vessel and the owners and masters thereof to deliver said freight and baggage at the said port of Cape Nome at the time of the arrival there of the said vessel, on or about the said 17th day of June, 1900, libelants were deprived of the use and profit thereof, and being unable to get accommodations, were compelled to sleep in the open air, exposed to the fog, dampness, and the inclemency thereof, which exposure produced sickness, great mental and bodily pain

and suffering, and hardships to libelants, and which said suffering, hardships, and pain were caused by the negligent, indifferent, and wrongful acts of the said master; and that by reason of the said wrongful acts of said master and the said vessel, libelants were deprived of provisions and supplies for their comfort and maintenance for the space of ten (10) days and more, and were compelled to secure provisions at great inconvenience and expense, amounting to over twenty-five dollars (\$25.00) each; and that by reason of said negligent, careless, and wrongful acts of said master and the said vessel, libelants were unable to avail themselves of said materials contained in said freight and baggage, and were caused loss and damage in the sum of one hundred (\$100.00) dollars each.

VI.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

Wherefore, libelants pray that process of attachment in due form of law, according to the course of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against the said steamship "Valencia," her boilers and machinery, tackle, apparel and furniture; and that said ——— Lane, master, and all other persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters and things herein alleged; and that this Honorable Court will be pleased to pronounce for the damages aforesaid, with costs, and

that the said steamship "Valencia," her boilers and machinery, tackle, apparel and furniture, may be condemned and sold to pay the same, and that the Court will grant libelants such other and further relief as shall to law and justice appertain.

J. L. MORRIS,
FRANK J. MURPHY,
GEORGE SANDMANN,
RICHARD L. LEWIS,
CHAS. SCOTT,
A. C. PORTERFIELD,
JAMES L. KIZSEE,
Libelants.

P. P. CARROLL,
Proctor for Libelants.

In District Court of United States, }
Northern Division, } ss.
District of Washington. }

Jas. L. Morris, Frank J. Murphy, A. C. Porterfield, Richard L. Lewis, Chas. Scott and George Sandmann, each being first duly sworn, on oath says: That he is one of the libelants named in the foregoing libel; that he has heard the same read, knows the contents thereof and believes the same to be true.

J. L. MORRIS.
A. C. PORTERFIELD.
FRANK J. MURPHY.
JAMES L. KIZSEE.
RICHARD L. LEWIS.
CHAS. SCOTT.
GEORGE SANDMANN.

Subscribed and sworn to this 29th day of September, 1900.

[Notarial Seal]

P. P. CARROLL,

Notary Public in and for the State of Washington, Residing at Seattle in said County.

[Endorsed]: Libel. Filed October 29, 1900. R. M. Hopkins, Clerk.

In the United States District Court, for the District of Washington, Northern Division.

IN ADMIRALTY.

A. C. PORTERFIELD, GEORGE SANDMANN, J. L. KIZSEE, JAMES L. MORRIS, FRANK J. MURPHY, RICHARD L. LEWIS and CHAS. SCOTT,

Libelants,

vs.

No. 1845.

Steamship "VALENCIA,"

Respondent,

PACIFIC STEAM WHALING COMPANY,

Claimant.

Answer to Libel of James L. Morris et al.

To the Honorable C. H. HANFORD, Judge of the above-entitled Court:

The answer of the Pacific Steam Whaling Company, the above-named claimant, to the libel of A. C. Porter-

field, George Sandmann, J. L. Kizsee, James L. Morris, Frank J. Murphy, Richard L. Lewis and Chas. Scott, in a cause of damage, civil and maritime, alleges as follows:

I.

It admits the allegations contained in the first paragraph of said libel, except the allegations that the master of said vessel undertook or promised any matter or thing relative to libelant, or that it was understood and agreed that libelants were to have their victuals served the same as in the first cabin, and that the master of said vessel said that the food to be furnished the second-class passengers would be equal to that furnished the first-class passengers, which it denies.

II.

It admits the allegations contained in the second paragraph of said libel.

III.

It denies each and every allegation contained in the third paragraph of said libel, except as hereinafter specially admitted, and denies that said libelants, or any of them, suffered in health and in mind, and were caused great mental pain and worry, to their injury and damage in the sum of five hundred dollars each, or in any sum whatever, or at all.

IV.

It admits the allegations contained in said fourth paragraph of said libel, except the allegations that said freight was not delivered upon the arrival of said vessel

at Cape Nome, but was wrongfully detained by said vessel for a space of ten days or more, and during said time said vessel carried said freight from Cape Nome to Golofnin Bay, to Cape York and back to Cape Nome, all of which it denies.

V.

It denies the allegations contained in the fifth paragraph of said libel, and denies that said libelants, or any of them, were caused loss and damage in the sum of one hundred dollars each, or in any sum whatever, or at all.

And claimant further answering said libel alleges:

VI.

That on or about the 26th day of May, 1900, the said steamship "Valencia," owned and operated by claimant in the transportation of freight and passengers between ports in the State of California and the State of Washington and ports in Alaska, was bound on a voyage from the port of San Francisco to the port of Nome, Alaska, via the port of Seattle, with a general cargo and a list of about six hundred first and second-class passengers; that said vessel was properly and sufficiently supplied, provisioned, equipped, furnished, and manned for said voyage, and for the accommodations of said passengers, including said libelants.

VII.

That during said voyage each of said libelants was properly and sufficiently fed and was furnished with sufficient water and all the accommodations, including a good and comfortable berth, which they were entitled to

as second-class passengers, and that at all times during said voyage this claimant, and the master, officers, and crew of said vessel, cared for and looked after the comfort of said passengers, including each of said libelants, to the best of their ability.

VIII.

That the freight and baggage shipped by said libelants on board said steamer as set forth in said libel was delivered by claimant to libelants at Cape Nome as soon after the arrival of said vessel, as the conditions of the weather and sea in the open roadstead at Cape Nome would permit.

That all and singular the premises are true.

Wherefore, the claimant prays that the Court would be pleased to pronounce against said libel, condemn libelants in costs, and otherwise right and justice to administer in the premises.

GORHAM & GORHAM,
Proctors for Claimant.

United States of America, }
District of Washington. } ss.

Austin Claiborne, being first duly sworn, on oath says: That he is the agent of claimant in the above-entitled action; that he has heard the foregoing answer read, knows the contents thereof, and believes the same to be true.

AUSTIN CLAIBORNE,
Agent.

Subscribed and sworn to before me this 31st day of January, A. D. 1901.

W. H. GORHAM,
Notary Public in and for Washington, Residing at Seattle.

Due service of the within answer by copy hereby acknowledged this 6th day of February, 1901.

P. P. CARROLL,
Proctor for Libelants.

[Endorsed]: Answer. Filed in the United States District Court, District of Washington. February 6, 1901. R. M. Hopkins, Clerk. A. N. Moore, Deputy.



In the District Court of the United States, for the District of Washington, Northern Division.

J. T. GRISMORE and GEORGE C. GRISMORE,	} Libelants,	} No. 1,766.
vs.		
Steamship "VALENCIA,"	} Respondent.	

Testimony.

To the Honorable C. H. HANFORD, Judge of the Above-entitled Court:

On this 11th day of August, A. D. 1900, pursuant to the agreement of parties, there appeared before me the libelants by P. P. Carroll, Esq., proctor for libelants, and the claimant by Messrs. Gorham & Gorham, proc-

tors for claimant, whereupon I proceeded with the taking of testimony as follows:

Libelants' Testimony.

ROBERT ALEXANDER, produced as a witness in behalf of the libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) State your name.

A. Robert Alexander.

Q. Where do you reside?

A. San Diego, California.

Q. Are you acquainted with John T. Grismore, one of the libelants? A. Some slight acquaintance.

Q. And George C. Grismore?

A. Some little acquaintance with him; I got acquainted with him going up on the boat; that is all.

Q. You met them on what boat?

A. On the "Valencia."

Q. Were you a passenger on that vessel?

A. Yes, sir.

Q. Where did you take passage?

A. Frisco.

Q. From Frisco to where did you take passage?

A. Cape Nome.

Q. Were you on her during that voyage?

A. Yes.

Q. Were W. T. Grismore and George C. Grismore aboard her during that voyage? A. Yes.

Q. Did you hear any complaint on board the vessel about the treatment of the passengers?

Mr. GORHAM.—Objected to as too indefinite, and the further objection as irrelevant and immaterial and incompetent, unless it is confined to the treatment of the libelants it is immaterial what the treatment was of other passengers who are not suing in this case.

Q. You heard a complaint?

A. Oh, yes, I heard a good deal of complaint.

Q. Was that complaint confined to any particular person?

Mr. GORHAM.—We make the same objections.

A. No.

Q. Was it general?

A. It was in general among all.

Q. Did you hear of any petition being circulated to be presented to the master of the vessel?

Mr. GORHAM.—We make the same objection.

A. Yes, sir.

Mr. GORHAM.—And the further objection that it does not appear that these libelants were in any way connected with that petition.

Q. Did you see that petition?

Mr. GORHAM.—Same objection.

A. I don't think I did—I don't think so. I saw them writing it, but I did not read it and I did not look at it, not to my recollection.

Q. Was there any complaint about the food that was supplied to the passengers?

Mr. GORHAM.—Same objection, and we insist that the interrogatories be addressed to the witness in rela-

tion to the libelants and not to the passengers generally.

A. Oh, yes; there was a good deal of complaint made about that; that is in our department where I was.

Q. Was that food that was complained about good or bad?

Mr. GORHAM.—Same objection.

A. It was pretty bad.

Q. Now, in what way was it bad?

Mr. GORHAM.—Same objection.

A. Well, in the first place, it was not cooked properly; it was not very well cooked at no time, and there was some boiled meat a few times came on.

Q. Did you buy a ticket as a passenger from San Francisco to Cape Nome? A. Yes, sir.

Q. What character of passage did that ticket call for?

Mr. GORHAM.—Objected to as the ticket itself is the best evidence.

A. Second class.

Q. Did you receive second-class passage aboard the vessel?

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent, and not addressed to any of the issues in this case at all.

A. We received steerage passage.

Q. Now, what was the general character of the treatment which you received as a steerage passenger?

Mr. GORHAM.—Same objection as irrelevant, immaterial, and incompetent.

A. Well, just like on most all the other boats, I guess; pretty rough—that is, pretty dirty, and there was no orderment about bringing up the grub or putting it down to you.

Q. Do you know whether any complaints were made to the captain about the treatment of his passengers?

Mr. GORHAM.—Same objection.

A. I don't know that; I heard a good deal about that, but I don't know it to be true.

Q. There was a general complaint, though?

Mr. GORHAM.—Same objection.

A. Yes, sir; oh, yes, there was a general complaint.

Q. Do you know whether the Captain talked to any of his passengers concerning the complaint?

Mr. GORHAM.—Same objection.

A. Yes, sir, I think the Captain came down and talked a time or two, to the best of my recollection.

Q. Did you hear him say anything at the time he came down?

Mr. GORHAM.—Same objection.

A. Yes, sir.

Mr. GORHAM.—We object to this unless it is confined to the issues in this case.

Q. Was there any of the libelants in this case, the Grismores, present at that time? A. Yes, sir.

Q. What was it the captain said?

A. Well, the captain said that there was plenty on

board to eat, and he wanted and intended for the passengers to have all they could eat and what was good, and he would do the best he could to help them.

Q. Well, after that conversation was the condition better? A. Not any better; about the same.

Cross-Examination.

Q. (By Mr. GORHAM.) You signed no petition?

A. I don't think I did.

Q. In the way of a complaint? A. No, sir.

Q. What is your business, Mr. Alexander?

A. I am a miner.

Q. What was your business in San Diego?

A. I followed mining and running drills—drilling wells.

Q. How long were you on the voyage?

A. Well, I don't remember just how many days—we left on the 25th.

Q. Of May?

A. Of May, and I don't remember—we got there on the 16th—I got mixed up somewhere about that.

Q. You were about three weeks on the voyage, were you not? A. I think so, nineteen days.

Q. Was this your first trip at sea?

A. No, sir; I was at sea before.

Q. As a passenger?

A. Yes, sir; that is; on the lower coast; on the Gulf of Mexico and through there; but this is my first trip north.

Q. Do you know how your accommodations on the

“Valencia” on this trip compared with the accommodations of second-class passengers on other steam vessels on the Nome Trade that season?

A. I don't know; well, I came back down on the “Nelson” and it was a good deal better on the “Nelson” coming back than it was going up. Of course there was not so many people on board; they were not crowded as the other, and that had something to do with it.

Q. You had no complaint yourself made to the captain?

A. No, sir; I never made any complaints about such things. I take my medicine.

Q. The captain treated you courteously?

A. Yes, sir, the captain was very nice to all the passengers, so far as I saw.

Q. The other officers treated you courteously?

A. Yes, sir, the officers were very polite.

Q. And you had no complaint to make yourself, personally?

A. I did not make any complaint, no, sir.

Q. You had no complaint to make?

A. Well, it was a little tough, but then I didn't say anything.

Q. No tougher than you would expect?

A. Not on the steerage passage, I would not, but on the second class, I thought it was a little tough on the second-class tocket.

Q. Do you know how many classes there were?

A. Only what I was told at the office when I went there to get my ticket; I bought my ticket the week

before I started, and I went to the general office to get my berth put on it as second class and he told me there, the man that was doing the business, he said there were but two classes, first and second and there was no steerage at all; that is what he told us, and he put my number—that is, the number of my berth—on the ticket, and he said there would not be any difference in the first and second class, only that the first class was supposed to eat at the table, but it was all generally the same thing.

Q. Do you know his name?

A. No, sir, I don't know his name, but he was the man that was doing business at the office.

Q. Do you remember of signing any petition at all aboard that ship?

A. I don't remember whether I did or not; I could not say. I might have done it, but I don't remember.

Q. Did you see this petition complaining of the treatment and character of the food handed around?

A. No, sir, I did not; I never read it; I saw it.

Q. Did you see other people signing it?

A. Yes, sir; I saw other people signing it.

Q. Did you see them signing it without reading it or after reading it?

A. They were reading it.

Q. Was it handed to you?

A. I don't think so.

Q. Were you requested to sign it?

A. As well as I remember I was.

Q. And you refused?

A. No, sir; but I don't think I signed it.

Q. Did you refuse? A. Well, I guess I did.

Q. You did sign a petition, though, didn't you?

A. I signed a paper once on the upper deck that some doctor had there, something relating to the captain.

Q. The courteous treatment of the officers to the passengers?
A. Yes, sir I think so.

Q. You signed that? A. Yes, sir.

Q. You were satisfied to sign it?

A. I guess so.

Q. You signed it without duress?

A. Of course I was not under no arrest.

The CAPTAIN.—I would like to ask Mr. Alexander one or two questions: You remember when the petition was handed me in regard to the food—you remember when I came down the stairway?

A. I remember when you came down the stairway.

Q. Didn't you complain about having to buy things to eat? A. Yes.

Q. What did I tell you—didn't I tell the men that if any one could buy anything from any steward or any waiter or any man connected with the ship and bring the man to me and prove it, that I would give him a twenty dollar gold piece—that I wanted to break that thing up, and I told you all that there was plenty of food there?

A. You said that any man that had bought or would buy any food from any of the officers or anybody aboard that ship, that if the man would bring him to you, you would give him five dollars and you would put that man somewhere—

Q. Didn't I say that I would put that man so far in hell that he never would get out for the next six years?

A. Yes, sir.

Q. I think it was twenty dollars I offered.

A. Five dollars—you told him five dollars.

Q (By Mr. GORHAM.) But the captain was using every effort to break up that conduct on the part of the subordinate officers, and showed by his language that it was unauthorized by the company?

A. Yes sir, his talk all the time—the captain that way was trying to break that up.

(Testimony of witness closed.)

WILLIAM R. FRIEND, produced as a witness in behalf of libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) You were on the voyage of the "Valencia" from San Francisco to Nome?

A. Yes, sir.

Q. On that voyage which the Grismores are complaining of in their libel?

A. That is the one, I presume; the "Valencia" left Frisco on the 26th of May; that is the one.

Q. You were on her during that voyage from San Francisco to Cape Nome? A. Yes, sir.

Q. You heard Mr. Alexander's statement?

A. Yes, sir; I was paying attention to it.

Q. Can you verify and confirm what he said?

A. Well, I can't verify all of it; no, sir. Some things that I know he has not testified to, and other things that he has talked about that I don't know.

Mr. GORHAM.—We move to strike out the answer of the witness as not responsive to the question.

Q. (By Mr. CARROLL.) In substance, so far as he has testified, according to your knowledge or information, it is correct; that is, as the thing came under your knowledge, are you able to confirm what he said in his testimony?

A. Yes, sir; except that he made an assertion that the "Valencia" left on the 25th.

Mr. GORHAM.—We consent that that is immaterial.

A. (Continuing.) Otherwise I think I can testify in accordance with his testimony.

Q. Your testimony would be the same substantially?

A. Yes, sir, as far as I know.

Mr. GORHAM.—We move to strike out the testimony of the witness as not addressed to the issues in this case or in any way connected with the complaint of the libelants.

Mr. CARROLL.—This method is taken, which is agreeable to the parties, libelants and respondent, for the purpose of lessening the expense and shortening the time.

Mr. GORHAM.—I make the objection in order to save the record.

Cross-Examination.

Q. (By Mr. GORHAM.) Did you sign any petition on board that ship? A. No, sir.

Q. Did the captain and the officers of that ship treat you courteously?

A. Well, as far as the captain is concerned I had no

connection at all—in fact with any of the officers. I addressed the steward one day in regard to the drinking water; they were taking the drinking water, I think, from what they called the condenser apparatus that they had attached from the engine-room into the tank, and the water was very warm and salt, and I asked the steward one day. It was time—they had regular hours for serving water, and the hour had come around—I had been without water, I think, for a day or two—I was keeping up on coffee and tea, and I addressed the steward in a very gentlemanly way and asked him if they were going to serve water, and he gave me a very brusque answer. And I witnessed indignities like that on the part of the steward in particular, and in other ways.

Mr. GORHAM.—I move to strike that out as not responsive to the question.

Q. (By Mr. CARROLL.) I will ask you did you make any complaint to the master on that voyage?

A. No, sir.

Q. That is of the treatment of any of the officers towards you? A. No, sir.

Q. (By the CAPTAIN.) What class were you in, second class? A. Second class.

(Testimony of witness closed.)

CLAUDE L. ROULO, produced as a witness in behalf of libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) Mr. Roulo, you were on the voyage of the steamer "Valencia" from San Francisco to Cape Nome? A. Yes, sir.

Q. Between the 26th of May and the time she completed her trip to Nome? A. On the 17th of June.

Q. She reached Nome on the 17th of June?

A. Yes, sir.

Q. Were you acquainted with the Grismores suing in this case?

A. Well, I am not personally acquainted with those gentlemen; although his face is familiar to me, I could not say positively he was on board the vessel.

Q. Outside of that you were on board the vessel?

A. I was.

Q. And you heard Mr. Alexander's testimony?

A. I did.

Q. Now, would your testimony, that is, could you, in substance corroborate and confirm what he said—in other words, would your testimony be substantially as his has been, leaving out the details?

A. Not as a whole.

Mr. GORHAM.—We object as irrelevant, immaterial, and incompetent, and not addressed to the issues in this case.

Q. If there is any part of that which you would like to explain or add to, you can do so.

A. In regard to the treatment of the passengers by the officers I would differ somewhat from his testimony as far as the treatment we had received from the Captain. I think that the gentleman has been very courteous to all the passengers that came in contact with him, but the treatment that I have received at the hands of

the subordinate officers, that is, under the captain, has been very discourteous.

Mr. GORHAM.—We move to strike out the testimony of the witness as irrelevant, immaterial and incompetent and not addressed to the issues in this cause. It is immaterial what treatment this witness received at the hands of any officers on board the vessel.

Q. (By Mr. CARROLL.) With that exception, can you corroborate and would your testimony be in substance as Mr. Alexander's is, providing I questioned and cross-questioned you?

A. Yes, sir; with the exception of the date as fixed by him for sailing.

Cross-Examination.

Q. (By Mr. GORHAM.) Were you a second-class passenger? A. Yes, sir.

Q. Did you make any complaint to the captain?

A. I did not.

Q. Did you on the voyage make any complaint to the captain? A. I did not.

Q. Of the treatment to you? A. No, I did not.

Q. (By the CAPTAIN.) Did you hear me when I was on the stairs making a request to you gentlemen that if anything went wrong to let me know, and offering a reward for anyone that could buy anything on board that ship?

A. I heard such remarks going around, but I did not hear you say it.

Q. You made no complaint to me? No.

(Testimony of witness closed.)

THEODORE ST. ONG, produced as a witness in behalf of libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) You were on the voyage of this vessel from San Francisco to Nome, which commenced on the 26th day of May and ended on the 17th or about the 17th of June, on the steamer "Valencia"?

A. Yes, sir.

Q. You are acquainted with the Grismores who are suing in this case? A. No, sir.

Q. You saw them on the vessel?

A. Well, I don't remember that I saw them on the vessel.

Q. You have heard the witness Alexander's testimony? A. Yes, sir.

Q. Now, can you corroborate and confirm what he said substantially?

Mr. GORHAM.—Same objection as made to the previous witness' testimony.

A. No, sir, I cannot.

Q. Give your statement now of what you know.

Mr. GORHAM.—We object to this line of examination. Let the counsel ask the questions.

Q. (By Mr. CARROLL.) You were on board the vessel? A. Yes, sir.

Q. Did you hear complaints about the food given to the passengers?

Mr. GORHAM.—Same objection, and as not brought home to the libelants.

A. Yes, sir.

Q. Was there a petition or complaint circulated and signed by the passengers to be handed to the captain?

A. Well, I heard about that petition, but I never saw it.

Q. You didn't see it? A. No sir.

Q. And therefore you did not sign it?

A. No, sir.

Q. Was there a complaint, general or otherwise, about the food?

Mr. GORHAM.—Same objection.

A. General complaint.

Q. Was that food furnished the passengers good or bad?

Mr. GORHAM.—Same objection.

A. Well, it tasted pretty bad to me.

Q. Was there any of it spoiled?

A. Some was spoiled by the cooking; that's all.

Q. Now, what class of passage did you go by?

A. Second class.

Q. You were a second-class passenger?

A. Yes, sir.

Q. Did you receive second-class treatment?

Mr. GORHAM.—Objected to as irrelevant, immaterial, and incompetent, and it does not appear that he knows what second-class treatment would be.

Q. Were you put into a cabin? A. No, sir.

Q. Was there a first and second cabin on board the steamer?

A. Well, or course, I don't know about the cabin, but I was intended to have second cabin, because I bought my ticket for second class.

Q. Where were you in the vessel?

A. I was put down below on the front.

Q. In the steerage?

A. In the steerage, yes; I bought two tickets, one for myself and one for my partner. If I remember right, we had cabins No. 20 and 21.

Q. Did you occupy those cabins? A. Yes, sir.

Q. Were you put into them?

A. Yes, sir—my number was right.

Q. That is, did you occupy the second-class cabin which you speak of—did they put you into that?

A. Well, I occupied that cabin on the front of the steamer—not the cabin, but the bunks, you know.

Q. Did you eat your victuals in the cabin?

A. No, sir.

Q. Now, outside of what you have said, you have heard Mr. Alexander and the other witness' testimony—would your testimony be the same as they have testified to?

Mr. GORHAM.—Same objection.

A. Yes, sir, about the same.

Cross-Examination.

Mr. GORHAM.—I move to strike out the testimony of this witness as not addressed to the issues in this case.

Q. Did you make any complaint to the captain?

A. No, sir.

Q. Were you present when the captain came down forward and addressed the second-class passengers?

A. No, sir, I was not.

Q. You did not hear him make any statement in reference to the subordinate officers selling food?

A. I may have heard it.

Q. You had no complaint to make to the captain?

A. No, sir, I did not.

Q. (By the CAPTAIN.) What did you say your partner's name was? A. Roule.

(Testimony of witness closed.)

(Further proceedings continued until August 21, 1900.)

August 21, 1900.

Continuation of proceedings pursuant to adjournment.

Present: P. P. CARROLL, Esq., Proctor for Libelants.

Messrs. GORHAM & GORHAM, Proctors for
Claimant.

JACOB M. BRIGGS, produced as witness in behalf of libelants, being first duly sworn, testified as follows:

Q. (By Mr. CARROLL.) Are you acquainted with John T. Grismore and George C. Grismore?

A. Yes, sir.

Q. Were you a passenger on the steamship "Valencia" on her trip from San Francisco on or about the 26th day of May, 1900, to Cape Nome? A. Yes sir.

Q. Were the Grismores on that vessel during that voyage? A. Yes, sir.

Q. You went as a passenger? A. Yes, sir.

Q. When did you go on board the vessel?

A. On the 26th of May.

Q. How long were you on board of her?

A. I think it was the 17th of June that I left her after our trip up.

Q. What class, if any, of passage did you take on board the vessel? A. Second-class passage.

Q. Did you have second-class passage all the way on board that vessel?

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent as to what class passage this witness had as not addressed to any of the issues of this case or to any of the material allegations of the libel and as unnecessarily encumbering the record.

A. I had first class—well, I bought a second-class ticket from San Francisco to Nome City by way of Seattle, and then I had first-class passage from San Francisco to Seattle, a stateroom; that I paid extra for, and then from here to Nome City I took second class, and then my ticket was taken up as second class, and I was given a steerage check in place of it—it was steerage passage.

Q. Was there any complaint on board the vessel about the food furnished the passengers? A. Yes, sir.

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent, and not brought home to the allegations of the libel.

Q. Do you know of any petition to the captain complaining about the character of the food being circulated and signed by the passengers?

Mr. GORHAM.—The same objection unless it was signed by the libelants.

A. I do. I know of a petition they sent around among the passengers, a petition to send to the captain, of the condition that the food was in the steerage passage before we arrived here.

Q. That was on the way from San Francisco to Seattle? A. Yes, sir.

Q. Was the food improved between Seattle and Cape Nome?

A. I could not say, because I did not eat in that department. I was first class, so I could not say about that only from Seattle to Nome City.

Q. What was the general character of food furnished you from Seattle to Nome City?

Mr. GORHAM.—Same objection.

A. The food was not, as I claim—it was not cooked properly; it was merely steamed, and our potatoes were always soggy—they were steamed and very often not done. Our meat was all stewed, scraps cut probably from the best meats, and a great deal of it was tainted and unfit to eat; it was stewed, and our beans were about the same way; some of them you could not eat, they were never done.

Q. Was there any complaint made to the captain about this treatment concerning the food?

A. I don't know that there was. There was a great deal of talk about it. I believe there was some complaint made to him.

Q. Do you know whether or not there was any effort made to improve it between the time you spoke of, between Seattle and Cape Nome?

A. I don't know if they tried to better it. I do know that I could not exist on the food and I bought my meals different very frequently on the boat.

Q. How were the accommodations in the steerage as to crowding, as to whether or not you had ample room?

Mr. GORHAM.—Same objection.

A. Well, they were pretty well crowded. It was full of bunks, and they were all full, and it was not very properly cleaned out. Sometimes it would not be swept out for two or three days, so that it could have been a great deal better.

Q. What was the character of those bunks in regard to cleanliness and comfort?

Mr. GORHAM.—Same objection.

A. Well, they were three above another, and there was a small excelsior tick furnished you, and then we furnished our own blankets or bedding, or whatever we had to sleep on.

Q. They did not furnish you with bed clothing?

A. I don't think they did.

Q. You didn't have any?

A. I didn't have any, only what I furnished.

Q. That is, the ship didn't furnish the bed clothing?

A. No, sir, they didn't.

Q. And you bought your passage as second-class passage?

A. Yes, sir.

Q. And had a ticket as such?

A. Yes, sir.

Cross-Examination.

Q. (By Mr. GORHAM.) Did you sign a complaint to the captain? A. No, sir, I did not.

Q. Was there one offered you to sign?

A. Yes, sir, but—

Q. Now, you had first-class passage from San Francisco to Seattle? A. Yes, sir.

Q. By paying extra for the accommodations?

A. Yes, sir.

Q. Eating in the saloon cabin? A. Yes, sir.

Q. Your ticket was a second-class ticket?

A. My ticket was a second-class ticket.

Q. You say the ship forward was somewhat crowded?

A. Yes, sir.

Q. Do you know whether or not the ship carried any excess of the number of passengers allowed by law?

A. I don't know whether she was crowded to excess or not.

Q. Did you at any time on that voyage see the captain down in the second-class accommodations, or forward where the second-class passengers were?

A. I did.

Q. Did you at any time, when you saw him there, hear him make any remarks to the passengers?

A. I did.

Q. Did you hear him state that he would pay any passenger any sum of money, who would inform him of any of the officers of the ship, stewards or flunkeys, selling food to any of the passengers?

A. I don't know that I heard him make that statement.

Q. What statement did he make?

A. I don't know that I heard him make any statement at that time, but I heard through the passengers of such a statement, but I did not hear the captain say so.

Q. What is your business?

A. I am a paperhanger and painter.

Q. How long had you known the Grismores before the commencement of this voyage?

A. I did not know them before that.

Q. How well did you know them on this voyage?

A. I knew them pretty well, that is, from Seattle up to Nome, and I was some considerable with them in Nome.

(Testimony of witness closed.)

August 24th, '00, 10 A. M.

C. F. WELDON, produced as a witness in behalf of libelants, being first duly cautioned and sworn, testified as follows:

Mr. GORHAM.—What do you expect to prove by this witness?

Mr. CARROLL.—I propose to prove by this witness that he was a passenger and bought a second-class ticket and was put in the steerage; that the treatment of the passengers generally was very bad; that the food furnished them was unfit to eat; that the manner in which it was cooked and handled was filthy, and that the place

where it was put was not kept clean; and that where he was put to sleep was filthy and dirty, and that he was not supplied with the comforts and conditions that second-class passengers were promised, and that second-class passengers were promised to have cabin fare and to have good, clean berths to sleep in and good and ample food for the voyage, and that they paid for it.

Mr. GORHAM.—We object to the testimony of the witness on the ground that it is irrelevant, immaterial, and incompetent, and the further ground that it is stimulative and unnecessarily increases the costs in this case.

Mr. CARROLL.—If proctor for the respondents and claimant will admit that the fare was generally bad and insufficient and the meat was tainted; that the place they were put to sleep was filthy and dirty, and they were not supplied with the conditions that their ticket called for, I will close the case so far as the testimony for the libelants is concerned, except as to their own testimony.

Mr. GORHAM.—We admit nothing; we object to this as cumulative and unnecessarily increasing the costs in this case.

Q. (By Mr. CARROLL. Mr. Weldon, were you a passenger on the "Valencia" from San Francisco to Nome between the 26th of May and the 17th day of June?

A. Yes, sir.

Q. Do you know John T. Grismore and his brother?

A. Yes, sir.

Q. Were they passengers on that voyage?

A. Yes, sir.

Q. Were you a second-class passenger?

A. Yes, sir.

Q. Paid your fare as such? A. Yes, sir.

Q. What was the character of the food which you received during that voyage?

Mr. GORHAM.—Our objections, and each and all of them, apply to all these questions asked this witness.

Mr. CARROLL.—To avoid expense and the filling up of the record, it is agreed that all this testimony is objected to on the same ground.

Q. State what was the character and general condition of the food furnished you on that voyage?

A. It was not the best, by no means; some of it was not clean; it was dirty—it was not cooked right.

Q. How was it dirty?

A. Well, they had some horses in the front of the boat, and the water from the horses ran back on the floor where the cook was cooking, and they would bring up their pans and set them on the deck and fill them, and then they would set them down there and shove them the length of the table, and consequently it was filthy, and the meat was tainted and the bread was poor.

Q. Now, what was the condition of the steerage where you were put during that voyage?

Mr. GORHAM.—We make the same objection, and further that it is not addressed to any of the issues in this case.

A. Well, we were put down under deck. And we went up a pair of stairs, and there was a room there

about a hundred feet long and a hundred and ten feet, and there was three rows of bunks on each side, one next to the tables and one next to the wall and three tiers high, and also on the other side there was the same, and there was two tables between those tiers of bunks, which left a space of about six inches or more from that over to the table, and then there was a bench set over there, and then at the end of the table—the table did not run up the full distance—then there was two more tiers of bunks came in there, three tiers high; at the end of the tables—one table was about thirty feet long and one was about twenty feet long or sixteen feet, and of course there was about two hundred men—two hundred and forty, some said, and some said two hundred and fifty in those bunks, and as they would get out in the morning there was dirt and you could not keep it clean—it was too small quarters.

Q. Now, were the accommodations which you describe the accommodations which were agreed to be given to you? A. No, sir.

Q. What was said when you bought your ticket?

A. When I bought my ticket I wanted a first-class ticket, and they said they had none but that the second-class was good—very nearly as good; they said we slept on the same deck—our berths was on the same deck as the first-class passengers, and we did not eat at the same table, but our food was good and cooked good; and we were put down in the hole, and we didn't eat at the same table, and the food was not very good.

Q. Do you know of any petition or complaint being made to the captain there that voyage? A. Yes, sir.

Q. Did you see that petition? A. Yes, sir.

Q. Did you sign it?

A. Yes, sir; I won't say that I signed that petition, but I saw the petition, they were passing it around; I don't know whether I signed it or not; I know everybody signed it as they went along—they could get plenty of signers—I could not say whether I did or not.

Mr. CARROLL.—I wish to ask the proctor for the respondent and claimant if this petition which is referred to in this evidence will be produced for the use of the Court in the trial of this case, or must I resort to a subpoena duces tecum; I make this request for the purpose of avoiding having to get the witness to testify as to what the petition contained. If it is to be introduced or produced by the defendant, it will obviate my having to get out a subpoena; if not, I want the witness to testify to what it contained, if they know.

Mr. GORHAM.—Any petition upon the part of the passengers to the master on that voyage will be produced upon a proper demand as soon as possible. I desire to say that I do not know of the existence of any such petition personally; if there is any such petition it will be produced upon the proper demand, and I desire further to say that the head office of the company owning this steamship is in San Francisco, California, and that I have requested the company to send to my office at Seattle any petition of the passengers to the master on this voyage, and have every reason to expect that my request will be complied with, if there is such a petition.

Q. (By Mr. CARROLL.) Do you know whether or not the captain at any time spoke to the passengers in the steerage about the condition of things that existed there, as to their treatment and as to the complaint concerning the food furnished them?

A. I heard the captain say, "You go to the steward or purser," I forget which.

Q. Proceed.

A. And we only had rice and sugar—or rice and hard tack; we had no sugar and butter. There was about forty or fifty of us went up and asked the captain if we could not have some sugar and butter, and he was going through the ice at the time. He said "Gentlemen, I have not time to leave this bridge. Go right to the purser or the steward"—I forget which he said—"and get what you want."

Q. Did you go to the steward or the purser?

A. Yes, sir.

Q. Did you get what you wanted?

A. Well, I believe they got some sugar. I believe they saw a lot of sugar on the shelf and they got up and got it. I don't know about that, as after I got through on my meal of rice I went up on deck, and I don't know what the next table got.

Q. Was there any shortage of water which you know of during the voyage? A. Yes, sir.

Q. What was the shortage which was complained of, if you know?

A. There was not enough water to wash in, of fresh water, and we did not want to wash in salt water, and

there was no water in the tank to drink. We went back to the barrel when we first started out from Seattle to get water out of the barrel to drink, and also the tanks was full when they left here, but I don't know, I think in a day or two they were all empty.

Q. What was the treatment of the passengers by the officers of the boat so far as you observed—was it good, bad or indifferent?

A. I could find no fault in the way I was treated by the officers; they did not mistreat me.

Q. You had no complaint to make about the treatment of the officers yourself? A. No, sir.

Q. Now, as to the condition of the steerage in regard to cleanliness; can you describe that, what was the character of the dirt, if any, there?

Mr. GORHAM.—Same objection, and further as leading.

A. It was just the same as I described about the horses when we were eating, and the pans being set on the deck where the water from the horses ran out, and they would sit the pans on the deck and then take them down and slide them along the table; and the potatoes was dumped right in there with the dirt on them.

Q. Was that the general character of the food and the way it was generally handed out to the passengers in that hold or steerage?

A. Yes; sometimes we had a little better. We had bread and butter when we first started out on the voyage, and we had condensed milk. A part of the time we had condensed milk and one or two messes of bread was very

good, and the others began to get bad. There was more men than they were able to accommodate.

Cross-Examination.

Q. (By Mr. GORHAM.) Did you make any complaint to the captain?

A. On the one occasion I went with the party that made the complaint.

Q. That was when you were going through the ice in Behring Sea? A. Yes, sir.

Q. That was the only time?

A. That was the only time that I went with anyone; and there was sixty or seventy of us; I don't know how many—there was a big crowd went to the captain and asked if they could not have butter and sugar.

Q. How many days before you reached Nome?

A. I think that was about two days before you reached Nome.

Q. How long have you know the Grismores?

A. I have known Mr. Grismore about seven years, I should judge, by seeing him on the street and knowing of him.

Q. Whereabouts? A. At Oakland.

Q. What is his business?

A. He works for the railroad, bridge work.

Q. Carpenter?

A. Carpenter, I believe; bridge carpenter, I think he calls himself. I guess he works at house carpenter some.

Q. Have you got any interest in this case?

A. No, sir.

Q. Do you expect or anticipate bringing any similar case?

Mr. CARROLL.—I object to that as irrelevant, immaterial and incompetent.

A. I don't know but what I will.

Q. You have discussed it?

A. I have spoke about it. I spoke about it on the boat going up.

Q. Have you spoken about it in Seattle to any person?

A. I spoke about it to-day.

(Testimony of witness closed.)

THOMAS KAINE, produced as a witness in behalf of libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) Mr. Kaine, were you on the voyage of the steamship "Valencia" from San Francisco to Cape Nome between the middle of May and the middle of June?

A. Yes, sir.

Q. Was John T. Grismore and his brother passengers on that voyage?

A. Yes, sir.

Mr. GORHAM.—We will ask counsel if he proposes to prove by this witness the same general matters that he stated he proposed to prove by the last witness, Mr. Weldon.

Mr. CARROLL.—Yes.

Mr. GORHAM.—Then we object to the same as irrelevant, immaterial, and incompetent, and cumulative and unnecessarily increasing the costs in the case, and we make this objection to the entire examination.

Q. (By Mr. CARROLL.) You heard the testimony of Mr. Weldon, did you? A. Yes, sir.

Q. Can you confirm, corroborate, what he said generally in his testimony? A. Yes, sir.

Q. Your testimony would be, in substance, the same if you were asked question for question such as he has been asked? A. Yes, sir.

Q. And you will testify that you saw and know, as far as it came under your knowledge, what he has testified to? A. Yes, sir.

Q. What was the condition of the meat, if any, that was given to you for food on board that vessel on that voyage?

A. The meat was rotten, that was brought to the table on the day that we went up to the captain, and the captain referred us to the purser; the meat was stinking, the whole thing that was on the table—and he came down and smelled it and pronounced it—he said it was good, but if he had to eat it he would not think so.

Mr. CARROLL.—To avoid expense and incumbering the record, counsel for the libelants turns this witness over to the counsel for respondent.

Cross-Examination.

Q. (By Mr. GORHAM.) How long before you arrived at Nome was it when you went up to the captain, at the time you went up, at the time you referred to in your examination in chief?

A. We arrived in Nome on the next evening.

Q. How long before?

A. About a day and a half.

Q. Are you interested in the outcome of this action?

A. Not one particle; not now.

Q. Have you ever been? A. No, sir.

Q. Do you expect to be?

A. Well, I don't know. I could not tell you.

Q. (By Mr. CARROLL.) You mean to say that you could not tell? A. No, sir.

Q. You mean by that that you could not tell?

Mr. GORHAM.—Objected to as leading.

Q. (Continuing.) That you could not tell what you might do hereafter.

A. I can't tell what I may do.

Q. Have you any interest, direct or indirect, in the result of this suit? A. No, sir, I have not.

Q. (By Mr. GORHAM.) Do you contemplate bringing a similar action for yourself?

A. I am liable to; I only got in here yesterday and I don't know what I may do to-day—I have not had time to decide yet.

(Testimony of witness closed.)

JACOB WASSER, produced as a witness in behalf of libelants, being first duly cautioned and sworn; testified as follows:

Mr. GORHAM.—I will ask the proctor for libelants if he expects to prove by this witness the same general matters that he stated to prove by the first witness called to-day, Mr. Weldon, generally.

Mr. CARROLL.—Yes.

Mr. GORHAM.—Then we object to the testimony of the witness upon the ground that it is irrelevant, immaterial, and incompetent, and that it is cumulative evidence and unnecessarily increases the costs in this action, and we object to each and every question to be propounded by Mr. Carroll to the witness upon the same ground.

Q. (By Mr. CARROLL.) Were you a passenger on the vessel from San Francisco to Cape Nome between the middle of May and June last? A. Yes, sir.

Q. What passage did you take on that vessel?

A. Second cabin.

Q. Did you enjoy second cabin passage?

A. No, sir; we had the worst kind of steerage accommodations.

Q. Now, state how you were treated—not how you were treated yourselves, but how the passengers generally in the steerage were treated during that voyage.

A. Well, they were all dissatisfied with the accommodation we had and the money we paid.

Q. How was your food—was it good, bad or indifferent?

A. First, when we left San Francisco for awhile it was pretty fair, but afterwards it got so that we could not—I could not eat it. They had some stuff dished up to us, what they called Mulligan but I could not eat it, and it had such a bad smell that it was impossible.

Q. Was the meat served out there to you or to the passengers generally on that voyage, was it tainted or did it smell?

A. Well it did smell. I could not eat it, it smelled so.

Q. Did you have plenty of water—that is, the passengers generally—I don't ask you what you yourself had, but you were testifying to all of them.

A. We had water until we got up—well, before we got up to Dutch Harbor, and we were short after we left Dutch Harbor perhaps two days; they got us down to drinking water twice a day, and one day we had only one drink a day, and I suffered terrible.

Q. How about the closets—were there any closet accommodations? A. Well, yes; they were just—

Q. Was there enough closets to accommodate those passengers that were in the steerage?

A. Well, sir, sometimes, and sometimes it was not; there was so many men there.

Q. What can you say as regards the cleanliness of the places where you were put, or the steerage rooms where you slept?

A. Well, it looked very rough because there was those bunks was close together and the narrow passage was hardly that two men could pass one another, and in going into the bunks you had to lay sideways; you could not sit down or anything like that.

Q. Did the vessel furnish you bed clothes?

A. There was a mattress there and a pillow, and some men had no blankets and they complained, and I believe they got blankets but most of the men had blankets, because they were going to the mines, but the steerage looked very rough.

Q. You heard what Mr. Weldon said about the food?

A. Yes, sir.

Q. And about the condition of things in the steerage generally.

A. Yes, sir.

Q. Can you confirm and say what he said—would you do so if the questions were asked you?

A. Yes, sir.

Q. You can truthfully confirm his statement?

A. Yes, sir.

Cross-Examination.

Q. (By Mr. GORHAM.) Have you any interest in the outcome of this action?

A. No, sir, not at all.

Q. Do you contemplate bringing a similar action?

A. That is something I could not tell you; I don't know.

Q. Have you discussed it with anybody?

A. I have not.

Q. With anybody on the face of the earth?

A. No, sir, not at all, because I only came down here this morning.

Q. Have you heard it discussed in your presence?

A. No, sir, I did not.

(Testimony of witness closed.)

J. R. BIRT, produced as a witness in behalf of the libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) Mr. Birt, you were a passenger on the voyage of this steamer "Valencia" that we are talking about in this case?

A. Yes, sir.

Q. Do you know the Grismore brothers?

A. I do.

Q. They were passengers on that voyage?

A. They were.

Q. What ticket did you buy?

A. I bought a second cabin.

Q. Did you get second cabin accommodations?

A. No, sir.

Mr. GORHAM.—Do you expect to prove by this witness the same general matters contained in the statement which you made as to what you expected to prove by the first witness?

Mr. CARROLL.—Yes.

Mr. GORHAM.—We object to this as irrelevant, immaterial, incompetent, and not addressed to the issues in this case, and cumulative, and unnecessarily increasing the costs of this action, and we make the same objection to each and every question propounded to the witness.

Q. (By Mr. CARROLL.) You have heard the testimony of Mr. Weldon and of Mr. Kaine and of Mr. Wasser?

A. I did.

Q. Now, if those same questions were asked of you, would you answer them as they have answered them, do you think?

A. No. I would go deeper into the details and tell more of the facts.

Q. Now, I don't want you to state as to your own treatment; I want you to state now the general treat-

ment of the passengers in the steerage department of that vessel. A. It was brutal.

Q. And the general condition of the steerage room which you occupied with others?

A. There was two hundred and seventy of us in section B and one hundred and seventy in section A. We all had to eat in section B. We were crammed in there like sardines in the case. When we started out of San Francisco the men all took sick, but about eight of us. They vomited in the boxes which were attached to the bunks, which vomit remained in the boxes until we got to Seattle. The stench was almost unbearable. It got so bad that I could not stay in my bunk nor in the apartment that I was assigned to as a second-class passenger; I was forced to go on the main deck. I went on the main deck with the horses, as the smell of the horse urine and manure was preferable to the smell of this vomit which was decaying in those boxes.

Q. Now, as to the water supply; what have you to say as to that?

A. We were given fresh water to wash in the first day out, and the second day we had to take salt water. After we passed Seattle we were allowed to drink water twice a day; that is from seven to eight in the morning and from four to five in the evening, two drinks of water a day—I could not get that much.

Q. As to the closet accommodation, what would you say?

A. They locked up all the closets except two. The first and second mate had a closet; the quarter-master had

a closet; the fireman had a closet, and the sailors had a closet. They took all of them but two; and that was to accommodate six hundred men in sections A, B, and C. There was six hundred of us altogether there.

Q. Now, how was that food served and how was it cooked, if you know.

A. It was cooked by steam, by two dirty niggers—the dirtiest creatures I ever seen handle food for human beings. I seen them drop the—the cooking apparatus was right alongside the horses, and the horses being on the front part of the boat the urine and the manure naturally ran down—I saw them drop a large piece of meat into that urine and take it up and wash it off and take it right in there for our dinners; and then our food was carried below in pans, and they would bring the pans up and scatter them around out on the deck where the urine had run down, and fill the pans and then set one on top of the other as high as four pans, and in this condition carry it down and serve it out—the dirtiest thing I ever seen.

Q. Now, as to the smell of those victuals, what have you to say as to their being tainted or otherwise?

A. The meat at more than a dozen meals was tainted, which gave us all diarrhoea, and at times we suffered terrible from want of closet capacity; the meat was rotten. When we first started out the food was good, and then they cut off the butter, and then the sugar, and then the condensed milk, and when we got into Nome we had Mulligan stew and ship bread and sea biscuit. I suffered myself intense agony for the want of food.

Cross-Examination.

Q. (By Mr. GORHAM.) Have you any interest in this case? A. I have none whatever.

Q. Do you contemplate bringing a similar action?

A. No, sir.

Q. Have you discussed it with any one?

A. No, sir. I am going to bring a bigger one—not one like this.

Q. Against this company?

A. Against this company for brutal and inhuman treatment of a crippled man.

Q. Did you make any complaint to the master?

A. I did.

Q. How many times?

A. I drew this petition which you heard mentioned myself—and I drew it in as forcible and kindly manner as I could command. I signed it myself and two hundred and thirty-five others also signed it. I went to the captain when I got so weak with hungry that I could not stand, and told him that I was a crippled man, and that I was unable to get my food; that those others were strong and able-bodied and would get over me, and I could not protect myself. He said he was navigating the ship and I would have to go to the steward, and I went to the steward and he told me he could do nothing for me—he was drunk all the time.

Q. He was drunk all the time?

A. I never saw him sober.

Q. How many times did you see him?

A. Every day for twenty-two days.

Q. How many times a day?

A. Well, sometimes once and sometimes five or six times.

Q. So he was on one continual drunk?

A. He was on one continual drunk. He never got sober.

Q. That is your testimony?

A. That is my testimony.

Q. You went to the captain once?

A. I went to him once; I could not go to him often. I sent him a very polite but very strong petition once.

Q. You sent it to him? A. Yes, sir.

Q. You didn't take it?

A. Yes, sir, he took it.

Q. You didn't take it? A. I couldn't.

Q. You only went to him personally once?

A. Only once.

Q. When was that?

A. Well, that was about three days before we got to Dutch Harbor. I was suffering for both food and water. I was sick with fever and I could get no water, and he told me he had all he could do to navigate the ship.

Q. Did you go to him again, personally?

A. What was the use?

Q. I asked you if you went?

A. I answer that I went to him once.

Q. Did you go to him after that?

A. What was the use?

Q. I asked if you went to him again.

A. Didn't I tell you?

Q. I would like you to answer my question.

A. I will answer it "no."

(Testimony of witness closed.)

(Adjourned until to-morrow morning, August 25, at 10 o'clock.)

August 25, 1900, 10 o'clock A. M.

Continuation of proceedings, pursuant to adjournment.

ARTHUR C. PORTERFIELD, produced as a witness in behalf of libelants, being first duly sworn, testified as follows:

Mr. GORHAM.—Mr. Carroll, do you expect to prove by this witness the same general matters you stated you expected to prove on calling the witness Weldon to the stand on yesterday?

Mr. CARROLL.—Yes.

Mr. GORHAM.—Then we object to the introduction of any testimony of this witness on the ground that it is irrelevant, immaterial, and incompetent, and on the further ground that it is cumulative and unnecessarily increasing the costs in this case, and on the further ground that it is not addressed to any of the issues in this case.

Q. (By Mr. CARROLL.) Mr. Porterfield, you were a passenger on the steamship "Valencia"?

A. Yes, sir.

Q. Did you know John T. Grismore and his brother?

A. Yes, sir.

Q. Were they passengers on that vessel?

A. Yes, sir.

Q. On that trip? A. Yes, sir.

Q. What fare or ticket or transportation did you buy?

A. I bought a second-class ticket.

Q. What did you pay for it?

A. Seventy-five dollars.

Q. Did you get second-class passage?

A. No, sir.

Q. Now, state generally the condition of the steerage and the character and condition of the food that was furnished you as a passenger in the steerage during that voyage.

A. Well, the food of course was very rank. It was not fit to eat. In fact, I didn't eat much of it myself, except once in awhile I would get some bread and butter out of the steerage; and I would get stuff from the messroom, and I had some stuff with me that helped me out a good deal—jams and such stuff as that, that my mother had given me after my freight had gone, and I was taking that up as baggage; I got into that and I used that and it helped me out.

Q. During the voyage that we have reference to, did you occupy a place in the steerage? A. Yes, sir.

Q. What was the condition there as to room—was it crowded or not? A. It was very crowded.

Q. What was the condition as to cleanliness?

A. Well, it was not very clean. It was probably as clean as you could expect from the way it was crowded.

Some days the aisles would not be cleaned up when they should have been.

Q. How was the food cooked?

A. It was all cooked by steam.

Q. How was it served?

A. Well, it was throwed on the table in big dishpans and you could help yourself.

Q. Now, as to the condition of the meat; was it good or bad, as far as you know?

A. Well, a smell of it was enough for me. I didn't eat any of it.

Q. As to the sufficiency or insufficiency of fresh water; what have you to say for that?

A. Well, they didn't have any fresh water after they left Dutch Harbor at all and very little between here and Dutch Harbor. It was all condensed water and the condenser was out of shape, and so it did not do the work properly.

Q. Now, I want you to state generally and as concisely as you can the general character of the treatment of the passengers in the steerage; the efforts made, if any, for their convenience and to alleviate the crowded condition and to supply them with proper food.

A. Well, I don't think there was much effort made to make it convenient or anyways pleasant for the passengers that was down in the hold in any way; so far as I know there was not. There was a petition got up, and I believe it was presented to the captain just before getting into Seattle here in regard to bettering the condition in regard to the food, and it was—I believe we laid

here two days in Seattle, and it was a little better, but after leaving here it dropped back to the old condition, about the same as it had been.

Q. Then there was no effort made from here up to better the condition? A. No, not to my knowledge.

Cross-Examination.

Q. (By Mr. GORHAM.) Did you make any complaint to the captain, Mr. Porterfield?

A. I did not, no, sir.

Q. Did you sign any petition addressed to the master or the officers of the "Valencia" on that voyage?

A. No, sir, I did not sign the petition. Well, I just seen it and that was all. There was a crowd around at the time I spoke about.

Q. Did you sign any petition?

A. I did not, no, sir.

Q. Did you have a brother with you on the trip?

A. Yes, sir.

Q. G. K. Porterfield? A. Yes, sir.

Q. And your name is A. C. Porterfield?

A. Yes, sir.

Q. Is that your signature (showing)?

A. Yes, sir, that is my signature.

Q. Do you remember how you came to put your signature to that paper? A. Yes, sir.

Q. Then you did sign something?

A. I signed a testimonial of some kind.

Q. I will change that question where I said a petition, I will ask you if you did not sign a testimonial to the captain?

A. There was a friend of mine says, "We are getting up a little testimonial to the captain, and I want you to sign it." That was just after we had got off the shoal in what they call the Behring Sea, where we attempted to pull off the "Rosecrans."

Q. Right off the Yukon mudflats?

A. Right off the Yukon mudflats. We all felt very thankful to our captain at that time.

Q. You felt pretty good? A. Yes, sir.

Q. And you knew the general nature of this testimonial, that it was complimentary in its terms?

A. Yes, as to the efficiency of our captain.

Q. And his crew?

A. Yes, of course, but it was more of the captain, because I did think that the captain did conduct the thing very nicely.

Q. Have you any interest in this case?

A. No, sir.

Q. Do you expect to bring a similar action?

A. Well now, you might say I didn't consider the matter as regards that; I might say I don't, and I would not say positively either.

Redirect Examination.

Q. (By Mr. CARROLL.) This testimonial which was presented to you just now which you signed; that had more regard to the seamanship qualities of the captain than his relation to the passengers on board the vessel?

Mr. GORHAM.—Objected to as not proper redirect examination and as leading, and further the testimonial if introduced will speak for itself.

A. Yes, sir; as I stated before, I considered it a testimonial in regard to his carefulness and ability in regard to the care of the ship and his passengers in getting us off safely and carrying us through the voyage safely. There had been a good deal of fault-finding with the captain in regard to hanging back on account of the ice, you know, and I myself kicked a little because I thought we wanted to get there as quick as we could.

Q. (By Mr. GORHAM.) You were not a sailor man?

A. No, sir.

Q. And you recognized that he was afterwards?

A. Yes, sir; after we got aground and got off, I recognized his ability, and I thought he knew more about it than I did. I made the remark that I was willing to stay there for two weeks if he just kept us afloat, seeing how the "Rosecrans" people were and how they were throwing their stuff overboard.

(Testimony of witness closed.)

L. B. McPIKE, produced as a witness in behalf of libelants, being first duly cautioned and sworn, testified as follows:

Q. (By Mr. CARROLL.) Mr. McPike do you know John T. Grismore and his brother?

A. No, sir, I don't know those gentlemen.

Q. You were on the vessel from—

A. On the "Valencia."

Q. During the voyage from San Francisco to Cape Nome?

A. Yes, sir.

Q. Between the middle of May and the middle of June? A. The 25th of May.

Mr. GORHAM.—Do you expect to prove by this witness the same general matters which you stated you expected to prove on calling the witness Weldon on the stand yesterday?

Mr. CARROLL.—Yes.

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent, cumulative, and unnecessarily increasing the costs of this action and not addressed to the issues in this cause.

Q. (By Mr. CARROLL.) Did you go as a second-class passenger? A. Yes, sir.

Q. Paid your fare as such? A. Yes.

Q. Did you receive passage as a second-class passenger? A. I received passage in the steerage.

Q. You heard Mr. Porterfield's testimony?

A. Yes.

Q. If the same questions were asked you as regards your voyage, would you confirm what he said?

A. Yes.

Q. Your testimony, if we went over the same ground, would be substantially what he has sworn to?

A. Yes, about the same.

Q. And you now state that you ratify and confirm what he said? A. Yes, I do.

Q. And your testimony would be identically the same as his has been?

A. Yes, it is all straight, what he said.

Cross-Examination.

Q. (By Mr. GORHAM.) Mr. McPike, have you any interest in the outcome of this action?

A. No, sir, not that I know of.

Q. Directly or indirectly? A. No, sir.

Q. But you expect to bring a similar action?

A. No, sir.

Q. Have you discussed it at all?

A. I have not discussed it; no, sir.

Q. With anybody?

A. Only Mr. Porterfield here.

(Testimony of witness closed.)

Seattle, Wash., 4 P. M., Saturday, Sept. 15, 1900.

Continuation of proceedings pursuant to adjournment as follows, to wit:

Present: P. P. CARROLL, Esq., of Proctors for Libelant.

W. H. GORHAM, Esq., of Proctors for Claimant.

Mr. GORHAM.—I would like to know, Mr. Carroll, if the testimony of this witness you have here will be of the same general character of the testimony of the witnesses, the other fellow-passengers with the libelant, who have heretofore testified in this case.

Mr. CARROLL.—I believe it will.

Mr. GORHAM.—Then we object to the taking of the testimony of this witness on the ground that it is incompetent, irrelevant, and immaterial, and on the further ground that it is accumulative and unnecessarily increasing the costs in this action.

ANTHONY SAMMONS, a witness for and on behalf of libelants, called and duly sworn, testified:

Q. (Mr. CARROLL.) What is your name?

A. Anthony Sammons.

Q. Where do you reside?

A. San Francisco is my home.

Q. Where were you between the 26th day of May, 1900, and the 17th day of June, 1900?

A. On board the steamship "Valencia."

Q. On board the steamship "Valencia"?

A. I was.

Q. Where were you bound for? A. Nome.

Q. Where did you ship? A. San Francisco.

Q. You shipped from San Francisco to Nome?

A. To Nome; yes.

Q. What class passenger did you ship as?

A. As second-class.

Q. What did you pay for your passage?

A. Seventy-five dollars.

Q. What, if anything, was said to you at the time you bought your ticket?

Mr. GORHAM.—We object to that as incompetent, irrelevant, and immaterial and not addressed to any of the issues in this case.

A. Nothing that I remember of.

Q. No representations were made?

Mr. GORHAM.—Objected to on the same grounds and as leading.

A. No, there was nothing said any further than I engaged that passage for second-class and paid for it.

Q. Are you acquainted with the libelants in this case, Mr. John D. Grismore and Mr. George C. Grismore?

A. I know the gentleman's face; he knew me better than I did him, and I stopped to think and he addressed me and I says, "Yes, I know the gentlemen."

Q. Where did you meet them?

A. On board the ship.

Q. What ship? A. The "Valencia."

Q. On this voyage from San Francisco to Nome?

A. Yes, sir, that is where I met them.

Q. You say you purchased a second-class ticket?

A. Yes, sir.

Q. Did you get————

Mr. GORHAM.—Objected to as incompetent, irrelevant, and immaterial, and not addressed to the issues in the case and as leading.

A. I did not get it.

Q. What did you get?

Mr. GORHAM.—Same objection.

A. When our tickets was taken up, I was presented with a steerage ticket in my hat, which I threw overboard; I would not have that.

Q. Who else was in the steerage with you—were these libelants in the steerage with you?

A. This gentleman was in the steerage with me.

Q. You mean, this gentleman here, Mr. John T. Grismore, one of the libelants, was with you in the steerage?

A. He was with me, yes, sir, and in the same

Q. Now, Mr. Sammons will you tell us the way you were treated on that voyage from San Francisco to Cape Nome?

Mr. GORHAM.—Objected to as incompetent, irrelevant, and immaterial, and not addressed to the issues in this case and as accumulative and unnecessarily increasing the costs in this action.

A. Well, the food that was put before me I could not eat, and hunger drove me to the steward, the chief steward, with a plate of mush in my hand and I asked him to taste it; he said he was busy; I says, "It makes no difference," I says, "I want you to taste this." Well, he tasted it and he says, "Well that is raw." I says, "Well, I can't eat that." I says, "I am not a hog," I says, "I am a human being." I am giving you the exact words I used. "Well," he says, "That is no good," he says; "Wait a minute and I will give you something better." He gave me a good breakfast then, but anything else I could not eat in that steerage. I have oftentimes sat down when I was very hungry and tried to, tried to eat, but I could not; there was meat put on that table—— I was starved on that trip. Then I have bought from the employees on the boat. I paid the baker two bits for a pie, he finally raised the price to four bits; he had a good trade on board that boat, food was for sale; I have often paid stowaways, who have better fare than the passengers I have paid them money for something to eat; I have also eat with the firemen; I asked them, "Will you boys give me something to eat? I am hun-

gry." I have ate with them in the forecastle. And when I landed in Nome, the steamship company discharged part of the cargo, I had horses with me, and a wagon, they discharged my horses and they took the wagon with them to some other port. As luck would happen, I had a chance to hire a wagon. I paid ten dollars a day for that; when they came back from that port, they discharged the wagon, but they did not discharge the pole, so I was yet unequipped and paying ten dollars a day for a wagon. That is my experience with that company, but some day I may get recompense and I expect to get it. I am on my way back to Nome. I leave here this evening on the steamship "South Portland."

Q. Mr. Simons, will you state as to the condition of the vessel where you were as regards the cleanliness of that part of the ship where you were living?

Mr. GORHAM.—Same objection.

A. Well, it was impossible to keep the place clean when it was overcrowded with men sleeping on tables; there was more berths sold than there was space for—it is impossible. You come off of the deck and want to go down; you are tired, you can't always hang or lay on deck, you are tired, you want to sit or rest, but this smell, the stench of that place down below was so you could not bear it.

Q. What was the condition of the atmosphere down there?

Mr. GORHAM.—Same objection.

A. Most foul,

Cross-Examination.

Q. (Mr. GORHAM.) When you say you expect to get recompense for these delays that you have enumerated, what do you mean by that?

A. I shall go to the company and ask them if they are willing to recompense for what I have lost, and if they do not see fit to do so, I shall consult an attorney.

Mr. CARROLL.—Libelants move to strike out that answer as incompetent, irrelevant, and immaterial.

A. (Continuing.) I have other grievances with that company that have nothing to do with this case whatever.

Q. Did I understand you to mean that you would seek recompense for the manner in which you were treated? A. I do.

Q. On the voyage? A. I do.

Q. And for the lack of food? A. Yes.

Mr. CARROLL.—Libelants object to all these questions on the same ground.

Q. Did you complain to the captain of your treatment?

A. I did not complain to the captain; I took it up to the first officer.

Q. Just answer my questions and it will make it much shorter. Did you complain to the captain?

A. No, not personally to the captain. I will tell you what I have noticed; there was a number of men signing a petition—

Q. I don't care what other men did; I am asking you now what you did.

A. I have not complained to the captain. Well, the first mate before the mast is the proper man to complain to; that is the captain indirect.

Q. I am not asking you any such question; you will please answer my question.

A. I will answer your questions, yes, sir, but before the mast, that means the captain.

Q. Did you ever see the captain in the hold or down below where the passengers were? A. I have.

Q. Did you ever hear the captain state to the passengers down there that he would give them a substantial reward in money, if they would prove to him that any of the crew of that vessel were selling food, did you hear him make that statement to the passengers?

A. I have heard that only from others, but I have not heard the captain make that statement.

Q. That is all I am asking you, if you heard the captain make that statement? A. I have not.

Q. How many pies did you buy?

A. Well, I could not tell.

Q. Well, about how many?

A. I bought some every day.

Q. Every day?

A. We clubbed together with three or four and then we got something brought to us.

Q. Every day? A. Every day.

Q. That means every day on that voyage from May 26th to the 17th of June?

A. Well, it did not mean the first day, because we were not hungry, but from that on.

Q. From that on? A. Yes.

Q. And there was not a day that you did not pay for extra food? A. Not a day, sir.

Q. And yet you made no complaint to the captain?

A. Yes, sir, I made my complaints before the mast.

Q. I am asking you if you made any complaints to Captain Lane. Now answer that question; that is all I want to know?

A. Not to Lane, but as you probably are acquainted with marine laws any complaint made before the mast—

Q. That has nothing to do with this case; your lawyers will bring that out if they want it.

A. I am not fighting my case now, you understand; I am simply giving evidence here now of what I—

Q. What is your business?

A. My business is merchant.

Q. Whereabouts, in San Francisco?

A. Well, I have been in San Francisco in business, yes, many years, and now I have been merchandising in Nome. I have got considerable merchandise with me; I went into Nome with horses.

Redirect Examination.

Q. (Mr. CARROLL.) Mr. Sammons, you say you never made any complaint to the captain of this vessel?

A. Not I.

Q. Did you make any complaint to anybody?

Mr. GORHAM.—Objected to as not proper redirect examination, and as bringing out new matter on redirect examination.

A. I made my complaint to the mate, the first officer in command. Any complaint made before the mast goes direct to the captain. I made my complaint to the head steward; he admitted that it was not fit to eat—"Don't eat it," he says. "Well, I can't eat it," and he went in the cabin and got me something that I could eat. I was hungry, I was getting desperate; there was others—but I am not fighting anybody's case; I will fight mine when the proper time comes.

Testimony of witness closed.)

(And thereupon an adjournment was taken.)

September 20, 1900, 4 P. M.

Continuation of proceedings pursuant to adjournment.

The several proctors appearing as at previous hearings, the following proceedings were had.

Mr. GORHAM.—It is stipulated and agreed, by and between proctor for the libelant, and proctor for the claimant, that the testimony of this witness may be used in the case of Isaac R. Burt against the S. S. "Valencia," cause No. 1805, so far as the same may be applicable, subject to the same objection taken at this time, and also that the same testimony may be used in the case of Francis M. White, intervening libelant in said last-named cause.

LAWRENCE WILFRED BRADY, called as a witness in behalf of the libelant, being first duly cautioned and sworn, testifies as follows:

Q. (By Mr. CARROLL.) Mr. Brady, state your name.

Mr. GORHAM.—Is this witness called to prove the same general line of facts that have been testified to by the witnesses heretofore?

Mr. CARROLL.—Yes.

Mr. GORHAM.—Then we object to it on the ground that it is cumulative, and incumbering the record and also as irrelevant, immaterial, and incompetent.

Q. (By Mr. CARROLL.) Mr. Brady, were you on the S. S. "Valencia" on her voyage from San Francisco to Cape Nome between the 25th day of May and the 15th day of June? A. Yes, sir.

Q. Of this year? A. Yes, sir.

Q. Was John P. Grismore and George P. Grismore, and Isaac Burt, and Francis M. White, passengers on that voyage? A. Yes, sir.

Q. What part of the vessel did they occupy as passengers—that is, were they transported on first or second class or as steerage passengers?

A. Well, it was so-called second, but in reality it was nothing better than steerage.

Q. Do you know what victuals were served to the people in the steerage during that voyage?

A. Yes, sir.

Q. Did you see the food yourself?

A. Yes, sir.

Q. Did you handle part of it—did you handle it every day? A. Yes, sir, every meal.

Q. Every meal? A. Yes, sir.

Q. Was that food good, bad or indifferent?

A. Well, it was badly cooked, and on several occasions the meat was unfit for use. Pretty near all the time it was badly cooked and improperly served for the want of sufficient, or the right kind of help.

Q. As to cleanliness in the handling and serving of that food, what have you to say?

A. Well, I guess in regard to the cleanliness it was about as good as could be done under the circumstances with it; it was not what second-class passengers was entitled to; it was handled pretty roughly and the man that was handling it didn't know anything about it—we didn't have the right facilities to work or anything else.

Q. Were their horses stabled near where you served these victuals?

A. Well, the horses were right alongside the steam galley—that is, the steam kitchen, and right over the table where we served the food on.

Q. You say the meat was bad; in what way was it bad?

A. Well, it was too old, I should judge, or was not properly pickled; it smelt bad. I didn't eat it or taste it, but it smelt bad—I know that I didn't see anybody else eat it.

Q. Did you eat any of the victuals which were served to the passengers?

A. Very little; once in a while I would take some coffee. I was supposed to eat in the messroom, but if I didn't have time to go there I would send for it and the boys up there in the galley would send it down to ourselves.

Q. Well, would you eat such food as was served to these passengers at times?

A. Not unless I was compelled to—if I could not get any other, if I could get any other I would not.

Q. You have had experience in cooking and serving victuals aboard ship

A. Yes, sir.

Q. You are capable of judging of good, bad or indifferent victuals?

A. Well, I think I ought to be; I've been at the business long enough.

Q. Now, can you say that that food was bad?

A. Well, on the whole the food was not bad if it was properly cooked, but in some instances the meat was not fit for use, and the mush would come down and be sour and lumpy.

Q. What was the condition of that steerage as to cleanliness?

A. Well, it was not as it ought to be; it was very dirty. I didn't have enough help to clean it. It took us from the first thing in the morning to the last thing at night to get away with the meals.

Q. Did the passengers have a sufficient or plentiful supply of water?

A. No, sir.

Q. Was there a plentiful supply on board?

A. As far as I know there was.

Q. Do you know any reason why the passengers in the steerage did not get sufficient supply of fresh water?

A. No, unless it was precautionary; they may have been afraid they might run out and they didn't know how long it would last, or something like that.

Q. Were the horses allowed fresh water?

A. Yes, sir, all the time.

Q. All they wanted? A. All the time.

Q. Were the passengers in the first cabin?

A. Yes.

Q. Got what they wanted?

A. Yes, both for washing and drinking.

Q. Were the steerage passengers allowed fresh water to wash in? A. No, sir, salt water.

Q. They did not have, then, according to your information and knowledge, sufficient fresh water for drinking purposes?

A. No, sir, and the cooking arrangement—that is, the steam table, and the coffee and the arrangement for keeping the food warm—would not work and were not big enough.

Q. From your experience and knowledge as a steward or person handling and looking after the handling of food and looking after passengers, did the vessel have accommodations for the passengers she had in the steerage?

A. Well, in my opinion she did not; but then you know there is a certain space allowed by law—I don't know the measurement—but they have got to go through

inspection before going to sea, and if they pass inspection it is all right.

Q. So far as you could see, did the accommodation in that steerage department of that vessel—was it sufficient to accommodate the passengers therein?

A. No, sir, it was not. They were put to a great inconvenience by the steam pipes overhead that were leaking all the time, and some of the bunks were wet, and they could not sleep in them, and had to sleep on the tables and one thing and another.

Q. Do you know whether or not one Luke would set a table for passengers who paid him for the extra victuals or food? A. Well, that was done once.

Q. How was that?

A. Luke Marsh—he was a workaway, but he was put in the Articles. It was some fish was caught one day and he asked my permission to let it get cooked and let him set the table for those fellows that owned the fish, and they gave him a dollar for doing it.

Q. Do you know whether or not when the vessel was in port here in the dock at Seattle the passengers were all ordered to go ashore.

Mr. GORHAM.—Fix the time of this.

Q. When she was at the dock—when she called in to Seattle here on her way to Cape Nome—were the passengers on one occasion all ordered on shore?

A. The passengers were all ordered on shore; yes, sir.

Q. There was nobody on board after the passengers left but the employees of the ship.

A. There was some stowaways stowed away.

Q. Do you know about any baggage and blankets and freight, or provisions, being take out or stolen from section B of that vessel at that time?

A. It was reported to me, but I didn't know anything about it, but I had a suspicion as to who stole it. I thought it was one of those stowaways; in fact he told me afterwards he did. It was the same man that was shot in town the other day—that was the man that was a stowaway with us.

Q. What was the accommodation in the steerage for the sleeping of the passengers?

A. Do you mean for how many passengers?

Q. What accommodation did they have generally in the steerage for sleeping purposes?

A. Do you mean was it good or bad?

Q. Yes, was it good or bad?

Mr. GORHAM.—This question seems to pertain to this witness particularly and not to the libelant in this case, and we object to it as irrelevant, immaterial, and incompetent, and also as incumbering the records.

A. Well, all I should call it bad—that is for second cabin.

Q. Did you hear any complaint of those passengers regarding their accommodation and treatment?

Mr. GORHAM.—Objected to unless it is shown that it was done in the presence of the officers or made to the officers.

A. Yes, sir, there was several complaints—there was a petition sent into the captain. They complained to

me and I could not do anything. I told the captain how things were and I told the steward.

Q. You reported the conditions as you found them from time to time to the captain.

A. To the steward, as a rule, but on one or two occasions I reported to the captain—he sent for me.

Q. What did he say? A. The captain?

Q. Yes.

Mr. GORHAM.—Objected to as irrelevant, immaterial, and incompetent.

A. Well, I forget really what he did say, but he asked me how many men I had and what kind of men, and just how things were going generally, and such as that.

Q. Did he take any steps to remedy any of the complaints that were made?

A. Well, he tried to stop the selling of food on the outside to those passengers—they complained that food was being sold and he threatened to have the men that sold it locked up or arrested if he caught them at it again.

Q. State what you know about the butter, sugar, milk and other supplies being cut off during that voyage.

A. Well, on several occasions they stopped bread and intended just to give them soft bread once a day, and hard tack the rest of the meals, just half and half, so much bread for each sitting, and then they stopped allowing us butter, and cut me down in the butter. I made out a store-book for so much every day, and I would probably send up for fourteen or fifteen rolls, and he

would chop it off to nine or ten or something like that, and the same with everything.

Q. You ordered or obtained from time to time what you thought was enough for to supply those you had, to feed of butter.

A. No, sir; I never got enough—I never got what I ordered of butter.

Q. You ordered what you thought was enough?

A. Yes, but then they would cross it off.

Q. Were the supplies which you obtained from time to time sufficient to supply your passengers?

A. No, sir, and then when the passengers got to kicking about the bread and everything they went up to the captain and the steward.

Q. (By Mr. GORHAM.) Was this in your presence?

A. Yes, sir.

Q. This going to the captain; were you present at the time?

A. I didn't see them going to the captain but they left below and started with that intent.

Mr. GORHAM.—I object to the testimony as to what occurred between the passengers and the captain unless the witness knows it of his own knowledge.

A. (Continuing.) It is like this: I am pretty sure they went, because the passengers went to the steward, and immediately after the chief steward went down and asked me about the bread, and I said there was not enough, and he told me to go to the baker and get all the bread I wanted, and the passengers naturally

thought I was cutting down the allowance of the same—he turned me down the same when I tried to keep a little order down there. (Addressing the libelant.) Do you recollect when the passengers would rush in and I said I would not serve the meals until they got up—do you remember the steward coming down there and the passengers all started to complain, and when they did he walked up the stairs and he told the cook to send the food down without my giving any orders, and after that the passengers did as they pleased down there and I had no control over them at all, and the men that I had—out of all the men I had there was not one steamboat man. When I would want to hire a steamship man in Frisco the steward would have a man to put in their place; some of those fellows who wanted to work their passage up there and he would send them down to me. men that never saw a ship before in their lives, and I had to work and put up with it all, and between San Francisco and Seattle here there was one man and myself—myself and the boy running the whole forward department, section B, for three days.

Cross-Examination.

(By Mr. GORHAM.) You say the captain made some efforts to stop the sale of food on the outside?

A. Yes, sir.

Q. Were you in the cabin when the captain was there, in the second cabin when the captain offered anybody twenty dollars who would show him that any of his crew had sold provisions to the passengers?

A. Yes, that was made in the fore hatch.

Q. That was in the presence of many of the passengers?
A. Yes, sir.

Q. Were either of the Grismores there?

A. I could not answer that. There was a whole crowd. I passed through there and I heard that part of his remark.

Q. Do you know whether Burt was there at the time?

A. I could not tell you.

Q. Or Mr. White? Do you know whether he was there at the time?

A. I could not swear to anyone being there, but there was a big crowd around there.

Q. You know that the great body of the second-cabin passengers were there?

A. Yes, sir, and he spoke loud enough for those that were down below to hear him.

Q. Do you remember what he said?

A. Well, it was something to that effect—the last part that I heard. There was some of the passengers kicking, a big Scotchman called “Baby”—that had the horses, had some argument about the grub and he was doing the principal part of the kicking, and then just as I was passing down from the galley to the second cabin I heard the captain say that he would give five, or twenty dollars, to any person who would report to him the man that sold this grub on the outside.

Q. He offered that reward to any passenger?

A. Yes, sir.

Q. He did what he could to stop the sale of food on the outside?

A. Well, he done that much, but it went on afterwards. That was not all that went on; there was all kinds of grafting going on. Every man in the steward's department paid for his job.

Q. Did you ever sell any food to passengers?

A. No, sir.

Q. Did you ever sell any services to passengers?

A. No, sir, none at all, and no passenger can say that I did either.

Redirect Examination.

Q. (By Mr. CARROLL.) Was the milk and coffee and sugar cut off entirely at any time, or any part of it?

A. Yes, sir, for lunch several times; I could not state exactly the number of times, but at the luncheon meal, at the mid-day meal they stopped giving them tea or coffee.

Q. Was there any butter or milk or sugar furnished the passengers after they left Dutch Harbor?

A. Yes, sir, there was some, but we did not get it regularly.

Q. I am requested to ask you if the last day these passengers were on the boat they got anything to eat at all.

A. Do you mean the last morning?

Q. Yes, when you were at Nome.

A. Yes, sir, at Nome—well, I didn't serve any meals at all myself; I left the ship very early that day.

Q. (By Mr. CARROLL.) What time of day did she reach Nome? A. I could not say exactly.

Q. About what time?

A. It was night-time; on Sunday night we got there, about nine o'clock.

Q. On Sunday morning there was food served?

A. Yes, sir.

Q. You got there that night? A. Yes, sir.

Q. The food was served regularly on Sunday?

A. We had meals the same as before.

Q. Do you mean to say that on Monday morning no food was served?

A. I don't know what was served after I left the ship. I didn't serve any after that. As far as I know there was none served except the passengers would go and help themselves to it,

Q. What time did you leave the ship on Monday morning?

A. I should judge about—well, it would be between half-past seven and ten o'clock; I can't say exactly what time it was.

Q. (By Mr. CARROLL.) What position did you occupy on board the vessel? A. Second cabin steward.
(Testimony of witness closed.)

October 6th, 1900.

Continuation of proceedings pursuant to adjournment.

All parties present as at former hearing.

Dr. F. A. CHILDS, produced as a witness in behalf of the libelants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. CARROLL.) Doctor, you are a physician and surgeon? A. Yes, sir.

Q. Are you? A. I am.

Q. How long have you been practicing medicine?

A. Between ten and twelve years.

Q. Where is your residence?

A. 631 East Twelfth street, Oakland; that is my headquarters.

Q. Were you on the steamship "Valencia" on her voyage from San Francisco to Cape Nome between the twenty-fifth day of May and the seventeenth day of June?

A. Yes, sir.

Q. Was Mr. Grismore a passenger during that voyage? A. Yes, sir.

Q. Do you know John T. and George C. Grismore?

A. Yes, sir.

Q. They were both passengers on that voyage?

A. They were.

Q. What class of passage did you have on the "Valencia"?

A. I tried to get first-class, but they told me I could not get a first-class ticket, and I had to take a second-class. They told me first-class was as good as second-class.

Q. Don't you need to correct yourself in that matter, Doctor? Haven't you reversed the matter as to the first and second-class?

A. No, sir. They told me that I would be on the same deck with the first-class passengers and that I would have just as good accommodations as a first-class passenger. I said, "Where am I going to be?" They said, "Here is the ship right here," and they said, "You will

be in the middle aisle with the cabin passengers," but instead of that they put horses in there, but I didn't know it at the time or I wouldn't have went on the ship. They told me I would have just as good grub or very near as I would have on the first.

Mr. GORHAM.—We object to this as irrelevant, immaterial, and incompetent and cumulative and unnecessarily increasing the costs in this action, and not addressed to any of the issues in this cause.

Q. (Mr. CARROLL.) I call your attention to your answer to my first question there which I will ask to be read to you.

(Here the stenographer reads the answer referred to as follows: "A. I tried to get first-class, but they told me I could not get a first-class ticket and I had to take second-class. They told me first-class was as good as second-class.")

Mr. CARROLL.—Do you mean to say that they told you that the second-class was as good as the first-class?

Mr. GORHAM.—Objected to as leading.

A. Yes, sir.

Mr. CARROLL.—I will ask that the answer that the witness gave be read over to the witness again. (Here the answer above read is re-read to the witness.)

A. Very nearly as good.

Q. Don't you mean that they told you that the second-class was as good or nearly as good as the first-class?

Mr. GORHAM.—Objected to as leading.

A. Yes, sir; that is what I said.

Q. You have it down that the first-class is as good as the second-class.

A. I mean that the second-class is as good as the first-class, or very nearly as good—there was not any difference to speak of—that is the agent told me that, that I bought the ticket of.

Q. Now, Doctor, state the condition of the department or apartment of the vessel to which you were assigned during that passage, its condition as to light, ventilation and cleanliness.

A. Very bad.

Mr. GORHAM.—Same objection to all this character of testimony so as to avoid encumbering the record.

Q. (Mr. CARROLL.) What was the condition of the victuals furnished you during that voyage?

A. They were not properly cooked in the first place, and in the next place there was lots of them that was not fit for human beings to eat; they were not fit for a hog to eat.

Q. What have you to say as to the quality and character of the water, the fresh furnished the passengers?

A. They stopped the water business and just allowed you so much, and if you didn't get around there in time they would not give you any.

Q. Can you state about how much each person was allowed?

A. Well, I went there and they would not give me any and I had to go up and get a bottle of beer to quench my thirst.

Q. Was there much or any sickness amongst the passengers in the steerage department on that voyage?

A. There was some, yes, sir.

Q. Did you treat any of them? A. I did.

Q. How many? A. I treated several.

Q. Did you treat Mr. Grismore? A. I did.

Q. Did you treat his brother? A. Yes, sir.

Q. Now, state what you treated them for and what was their complaint and the cause of that complaint, if you know.

A. I treated them—I told them that I thought that it was the grub that they was eating, and I told them that as soon as they got into Dutch Harbor that they had better go and get a lot of stuff and take it aboard, and not to eat the stuff, that it was not fit for a human being to eat.

Q. Now, what did you treat them for?

A. Dysentery and fever.

Q. Can you state, as a physician, the cause of that dysentery and fever?

A. I think it was from impure meat and provisions of all kinds they had; that is my best judgment.

Q. Did they seem to suffer much?

A. Yes, sir; Mr. John Grismore suffered a great deal.

Q. What is the effect of the complaints for which you treated them as to its result upon the person that you treated—that is to say, the result or effect of this disease or complaint for which you treated them—does it leave any permanent or damaging effect to the patient?

Mr. GORHAM.—Objected to as leading.

A. Yes, sir, it does.

Q. State what.

A. I claim that if you get it into your system it takes a great deal of time to get it out.

Q. Do you know of any complaints being made to the captain of the vessel by the passengers in the steerage department? A. Yes, sir.

Q. Was that complaint in writing? A. Yes, sir.

Q. Did you sign it? A. I did not.

Q. Did you see it? A. I did not.

Q. Do you know that a complaint was presented to the captain? A. I was told that it was.

Mr. GORHAM.—We object to that as hearsay.

A. (Continuing). I have no personal knowledge of it.

Mr. GORHAM.—I move to strike out all the testimony of the witness in reference to the complaint being presented to the captain on the grounds that the same is hearsay.

Q. Did you treat Mr. John T. Grismore after you reached Nome? A. I did.

Q. When he was on shore? A. I did.

Q. What did you treat him for?

A. I treated him for chronic dysentery and stomach trouble.

Q. If you know, state what occasioned or caused that trouble which you treated him for.

A. To the best of my knowledge it was the impure food and the exposure.

Q. Did he seem to suffer much from this complaint?

A. Yes, sir.

Q. Did you see Mr. Burt here? A. Yes, sir.

Q. And Mr. White? A. Yes, sir.

Q. They were passengers on that voyage?

A. They were.

Cross-Examination.

Q. (Mr. GORHAM.) How many times did you treat John T. Grismore on the voyage?

A. I treated him several times.

Q. How many times?

A. I can't say exactly—several times.

Q. That is a very indefinite number.

A. He was one of my patients going up and from the time he got sick I treated him all the way up to Nome.

Q. When did you commence treating him?

A. I commenced treating him after I got out of Seattle here, between here and Dutch Harbor.

Q. About when, after leaving Seattle?

A. About the second day—the first day after leaving Seattle.

Q. It was John Grismore?

A. Yes, sir. (Pointing.)

Q. And you continued to treat him until he arrived at Nome?

A. I treated him after he arrived at Nome and while he was at Nome and all the time he was there.

Q. Now, how many times did you treat George Grismore?

A. I treated him about the same—he was not quite as bad as John was; and I got my money for it.

Mr. GORHAM.—I move to strike out the latter part of the witness' testimony as not responsive to the question.

Q. How long have you been a physician?

A. About ten years or twelve years—in fact, I have always been in my father's office and he is a physician.

Q. You live in Oakland, California?

A. Not altogether—I was in the employ of the Santa Fe Railroad.

Q. What college are you a graduate of?

A. The California Medical, in San Francisco.

Q. When did you graduate from there?

A. In 1895.

Q. You graduated from there in 1895?

A. Yes, sir.

Q. You hadn't a diploma before that time?

A. No, sir.

Q. Now, how continuously have you practiced your profession as a physician and surgeon since 1895?

A. All the time—whenever I go to a mining camp I am called on to attend them.

Q. How often do you go to a mining camp?

A. Well, I worked for the Santa Fe for three years steady.

Q. During what time? A. 1896—1897—'98.

Q. And to what extent have you practiced your profession since 1898?

A. I practiced all the time more or less.

Q. Have you done anything else?

A. Well, I have been in the mining business—I am a mining man. My brother and I are in the mining business.

Q. And while in the mining business you incidentally treated patients, as they called upon you?

A. Yes, sir.

Q. That was incidentally and not your main business?

A. It was; the main object of my business was mining and practicing—I always start an office wherever I go—I have to do it to keep business.

Q. You say you graduated in 1895? A. Yes, sir.

Q. How long did you attend the college?

A. Three years and nine months.

Q. Now, you first began to treat both the Grismores the day after leaving Seattle?

A. Yes, sir, the day after leaving Seattle.

Q. What symptoms did they display to you upon your examination?

Q. Dysentery, and John had fever—and John, his stomach began to trouble him.

Q. Did you make a physical examination of each patient? A. No, sir.

Q. You didn't make any physical examination?

A. No, sir, I did not.

Q. Then you don't know all the symptoms they were suffering from?

A. Well, to a certain extent I do; yes.

Q. State what your examination was.

A. From a diagnosis of the case.

Q. What diagnosis did you make; that is what I want to get at? A. From their own statements.

Q. That is the only diagnosis you made?

A. Well, I felt of their pulses and looked at their tongue, and so on.

Q. What do you mean by "so on"? I want to draw from you just what you did and what were the symptoms of John Grismore at the time you first commenced to treat him?

A. Diarrhoea and stomach trouble and fever.

Q. How long did he say at that time that he had been suffering?

A. He had been suffering, he told me, a few days before that, but he did not want to call physician in because he expected to pay them and he thought he would get over it, probably.

Q. How long did the other Grismore say that he was suffering? A. About the same time.

Q. Now, were those two patients of yours, the two Grismores, seasick at all, on that voyage?

A. I think they were at first; I am not positive in that regard.

Q. Why are you not positive?

A. Going out of San Francisco—

Q. I mean from Seattle.

A. Yes, they were all a little sick, but not to any great extent. Of course going out of the Golden Gate everybody was a little sick.

Q. You were not sick? A. No, sir.

Q. You are never sick at sea? A. No, sir.

Q. The Grismores were seasick—how long were they seasick?

A. I could not say positively in regard to that. They were not under my charge when I left San Francisco.

Q. They first came under your charge on the day after leaving Seattle? A. Yes, sir.

Q. Were they suffering from seasickness then?

A. No, sir.

Q. Did they suffer from seasickness at any time subsequent to that time, or up to the time of arriving at Nome?

A. I don't know what you would call seasickness—I don't know whether you would call it seasickness or not that they were suffering from—I would not diagnosis it as seasickness.

Q. What is seasickness?

A. Well, it is a derangement of the stomach, is what I would pronounce it.

Q. That is your definition of seasickness?

A. Yes, sir, a stirring up of the system, of the equilibrium.

Q. That is the definition you would give?

A. That is my definition.

Q. Your technical definition of seasickness as an expert medical man? A. That is my definition, sir.

Q. Now, at the time that you examined them first, you say they had dysentery? A. Yes, sir.

Q. Did it appear to be chronic at that time?

A. No, sir, it was acute at that time.

Q. And when did it develop into chronic dysentery?

A. On the voyage up.

Q. Now, Doctor, explain, as a medical man, the difference between acute and chronic dysentery?

A. Chronic is an old case and acute is not.

Q. That is your definition?

A. Yes, sir, that is my definition.

Q. Then your definition of acute dysentery is that it is not an old case? A. Yes, sir.

Q. And that is the only way you would describe it?

A. That is the way I would describe it exactly.

Q. What age must a case of dysentery be before you would call it chronic dysentery—you say it must necessarily be an old case; now, how old must it be before you would call it chronic?

A. Well, that is a leading question.

Q. You are on the stand as a medical expert and I would like to have you answer that question.

A. As far as acute and chronic—

Q. When does it cease to be acute and when does it become chronic, according to your idea?

A. Well, according to my idea, about ten days.

Q. It ceases to be acute and becomes chronic?

A. Yes, sir.

Q. What are the differences in the symptoms between what you call acute dysentery and chronic dysentery, if any?

A. Well, acute is when it first commences and the chronic is in older standing, I should say ten days. Of course, you can put as many days as you like, as far as that is concerned.

Q. What do the medical profession generally put it at?

A. They have different ideas in regard to that. You have different authorities in regard to that. That is my authority.

Q. Now, what authority is there that supports your theory that ten days of acute dysentery developes into chronic?

A. I have as good a right to my authority as anybody else.

Q. I am asking you what authority corroborates your theory?

A. My authority.

Q. Your individual authority?

A. My authority; my authority.

Q. What treatment did you prescribe to each of the Grismores—the same treatment?

A. No, sir.

Q. What treatment did you prescribe for John Grismore?

A. What remedies did I use?

Q. What treatment did you prescribe?

A. I can't tell now exactly, what I did use.

Q. Did you have a medical case with you?

A. Yes, sir. I had a medical case and I had a great many remedies in it. I treat cases as they arise.

Q. What treatment did you give John Grismore?

A. I gave him a remedy to allay fever—I gave him a sedative.

Q. What was it composed of? Name it.

A. Aconite.

Q. In what quantities?

A. Ten drop doses.

Q. How often?

A. In about a half a glass of water.

Q. How often? A. About every hour.

Q. And for how long a period?

A. Well, I can't recollect. I didn't think there was anything of this kind coming up or I would have taken it down.

Q. Give us your best recollection of how did that treatment continue.

A. Until the fever was subsided and when the fever was subsided I quit.

Q. How long was that? A. I could not tell.

Q. Was it one hour, one day, or ten days?

A. It was a day or two.

Q. And what other treatment did you prescribe for John Grismore besides the aconite to allay the fever?

A. That was about all I used. I may have used something else.

Q. Well, you remember his symptoms, don't you?

A. Well, now, it has been so long ago and I have treated so many cases that I can't recollect all the symptoms. I didn't keep a diary of them.

Q. You remember having diagnosed his case?

A. Yes, sir, I remember I diagnosed his case.

Q. And you could tell now, Doctor, what treatment you give a patient suffering from the symptoms that appeared, such as appeared from John Grismore, after diagnosing his case?

A. I diagnosed the case according to the conditions and surroundings, et cetera, and the complication and so forth.

Q. Did you take his temperature?

A. Certainly I took his temperature.

Q. What did you take it with?

A. I took it with a thermometer. I have a thermometer right here, if you would like to see it. (Showing.)

Q. What was his temperature?

A. I don't recollect. I don't keep a diary of the temperature of any of my patients.

Q. Was it normal?

A. Of course it was not normal or I would not have given him a sedative.

Q. Then after this treatment of about a day, what kind of treatment did you give Mr. John Grismore?

A. I treated the symptoms as they arose.

Q. Tell us what they were?

A. I can't tell you what the symptoms were. I can't recollect. I didn't keep a diary as I told you a half a dozen times already.

Q. But a physician generally has some memory?

A. They have some memory, but you don't treat any two patients alike. I never gave two patients the same kind of medicine in my life.

Q. Well, you would remember?

A. I didn't have any remedies of my—I am not a patent medicine man—I am a doctor.

Q. What school? A. The Allopathic.

Q. Now, how many times did you treat or prescribe medicine for John Grismore after the treatment of acornite and the sedative?

A. I prescribed for John Grismore until he left for Seattle.

Q. How many different times did you give him medicine?

A. I can't tell you. He was my patient.

Q. Did he appear to recover from his sufferings after the aconite treatment?

A. The aconite treatment was not my treatment altogether.

Q. Then state what it was.

A. I can't tell you what it was. I treated the symptoms as they arose.

Q. What were the symptoms?

A. Chronic dysentery, fever and stomach trouble.

Q. Now, did you give him the aconite simply to allay the fever? A. Sometimes I do.

Q. Did you in that case?

A. I don't recollect. I think I gave him aconite—I gave him aconite.

Q. Was that solely for the purpose of allaying the fever? A. Yes, sir.

Q. What did you give him for dysentery?

A. I can't say.

Q. What would you give a case of that character?

A. It depends altogether upon the patient. I never treated two patients alike.

Q. A patient in the condition of Mr. Grismore, at the time you treated him? A. I don't recollect exactly.

Q. How many times did you treat Mr. Grismore after he got ashore at Nome?

A. I treated him until he left Nome.

Q. How many times?

A. I have not got my book here. If I had my book I could tell you, but I have not my book.

Q. How long were you at Nome?

A. I was there about in the neighborhood of three months.

Q. How often did he come to you? Or did you visit him for the purpose of treating him?

A. Sometimes I visited him and sometimes he came to my office or my tent.

Q. How often during the first months after you arrived at Nome? A. I could not tell you that—

Q. Was it once a day, once a week, or once a month?

A. I can't tell you; I could not give you any idea.

Q. Where was he when you visited him at Nome?

A. He was camping opposite me.

Q. Whereabouts? A. It was on the beach.

Q. Right close to the water?

A. It is probably—I don't know—one hundred yards or a couple of hundred yards; I could not tell exactly how far it is from the water; it is somewhere along there, about that.

Q. Down near the Standard Oil Works?

A. Yes, sir.

Q. Don't you know that is six hundred feet from the water, and that six hundred feet is over the tundra at that point on the Nome beach?

A. Well, that is as near as my recollection goes; I never measured it.

Q. Were you not right close to the water, as a matter of fact?

A. No, sir, it was back from the beach—it was over the rim. It was close to the Standard Oil Company's buildings; that is where we were camped?

Q. And you should judge it was about two hundred yards from the water? A. There or thereabouts.

Q. Might it not be over seventy-five yards?

A. Yes, sir, it was over that.

Q. Tell us all your treatment of George Grismore—you first began to treat him the day after you left Seattle; now what was his symptoms?

A. About the same as John's—something similar.

Q. And what was your diagnosis of his case?

A. The same as I would diagnose any man's case.

Q. State how you did it.

A. I took his temperature and went through the preliminaries.

Q. State what you did and then we will see whether you went through the preliminaries—state the facts and let the Court judge as to that.

A. I took the temperature and his pulsations and I got a diagnosis of the case as near as I could, and I treated him.

Q. That is, all you did was simply to take his temperature and his pulsations; was that your diagnosis of his case?

A. Well, I got a history of the case—his history of it.

Q. And that was all? A. That was all.

Q. And from that you prescribed a treatment?

A. Yes, sir, I did.

Q. What did you find he was suffering from?

A. Dysentery. I can't say—I recollect more of John's case—John was my patient and I treated John more than the other.

Q. Why did you treat John more than George?

A. Because he was worse.

Q. Now, what treatment did you prescribe to George?

A. Well, now, that is a question which you asked me forty times. I treat my patients according as the symptoms arrive.

Q. I want to know what treatment you used.

A. I told you the treatment I use is that I treat the symptoms according as they arise.

Q. What were the symptoms?

A. I can't say what was the symptoms, only I treated him as any physician does. Can you get a physician in town here to tell you that? I have answered that question forty times here.

Q. I am not talking about John; I am asking you about George now. I want to ask you just the same question about George that I did about John.

A. Whether I gave him aconite or belladonna?

Q. I will ask you what you gave him and I want you to state.

A. I can't tell you what I gave him. I treated him according as the symptoms—as they would arise. I treated him as the symptoms would arise.

Q. You don't remember the symptoms?

A. I treated him as the symptoms would arise, and I don't recollect exactly the symptoms—he was about the same as John, as near as I can recollect.

Q. Was the treatment the same?

A. I told you I don't treat two people alike.

Q. In what way did they differ?

A. I can't tell you that.

Q. How long did he continue to take your treatment?

A. I treated both of them off and on all the time he was in Nome.

Q. And did he seem to recover from your treatment of him? A. It helped him some.

Q. And did he come to you again complaining?

A. Who—George?

Q. Yes. A. Yes.

Q. When?

A. I told you I treated him as the symptoms arose.

Q. How long after the first time did he come to you again?

A. I can't answer any such questions as that.

Q. Well, then, you can say you don't remember.

A. I told you I haven't any book or memorandum to tell you how many times I treated him.

Q. When you say you told me a lot of times. Now, you haven't answered my question, but if you don't remember say you don't know.

A. I ain't going to say I don't know, because I don't know. I treated him right along as the symptoms would arise. He was a patient of mine.

Q. Do you know how many times you treated George?

A. I don't know how many times I treated George.

Q. You don't remember?

A. I don't recollect. I don't want to be answering questions. I want to go at four o'clock. I won't miss that boat to San Francisco for you.

Q. Now, as long as you are on the witness stand you will answer my questions. If you are not willing to answer my questions you can say so. Now, at Nome what treatment did you give George—the same answer as before, that you don't remember?

A. I treated the symptoms as they arose, according as they arose.

Q. What were the symptoms?

A. I can't tell you.

Q. What did he appear to be suffering from?

A. As near as I could recollect it was dysentery. I treated so many.

Q. What did you prescribe for him at Nome?

A. I can't answer that question what I prescribed.

Q. He was lying in a tent on the beach?

A. Yes, sir. They was camped there.

Q. And they were beaching themselves?

A. Yes, sir.

Q. And feeding on the usual provisions that people in Nome lived on?

A. I didn't go around and ask what they were eating.

Q. You were never there at meal time?

A. No, sir.

Q. Did you ever eat a meal with them at Nome?

A. No, sir, I never did.

Q. You were camped right alongside of them?

A. I was camped right alongside of them.

Q. Could you see what they were when they were preparing their food?

A. I didn't go around and look. I didn't go around and ask them.

Q. That is not answering my question. If you answer my question we will get through, if you answer my questions. Could you see what they were preparing for food from where you were?

A. I could see if I had a mind to.

Q. You didn't take any notice?

A. No, sir, I didn't take any notice.

Q. Now, did you prescribe any particular kind of diet for either of the Grismores on the voyage of the "Valencia"?

A. They could not get any other. I told them that the grub they were eating was injurious to them.

Q. Did you prescribe any particular kind of diet?

A. I forget whether I did or not; I most assuredly did.

Q. You most assuredly did?

A. I can't answer that, but I most generally do that.

Q. But whether you did in that case you do not know?

A. No, sir.

Q. You could not swear that you did?

A. I would not swear that I did or that I did not.

Q. Now, at Nome what particular kind of diet did you prescribe for them? Anything—where they could get what food they wanted?

A. I answered that question.

Q. Did you prescribe any particular diet?

A. I could not answer that question.

Q. Now, Doctor, when you found those patients sick the day following the departure of the vessel from Seattle, did you report the fact to the master of the ship?

A. No, sir, I did not.

Q. Did you at any time report to the master of the ship that either of the Grismores were sick and under your care as a physician?

A. No, sir, I did not.

Q. Why didn't you, Doctor?

A. Because it was none of my business. I was not captain of the boat and I was not the surgeon of the boat. I was called as a physician is called.

Q. Well, you had them under your treatment there, for some twelve or fourteen days, didn't you?

A. Yes, I did.

Q. Now, don't you know, as a fact, that the Grismores, after leaving the vessel at Nome and taking their camp upon the beach, lived upon the usual food used by the miners at Nome during the last season?

A. I don't know what they ate.

Q. Don't you know that they ate mushes and canned food and canned meat and ham?

A. I don't know anything in regard to what their diet was at all.

Q. If they did eat that character of food and that only, was that according to your instructions as their physician or was it contrary to your instructions as their physician?

A. Canned goods?

Q. That character of food, canned goods and canned

meat and ham, and such like that, the ordinary food that miners eat—miners at Nome sustained life with during the season of 1900.

A. If canned goods are put up all right I think they are all right. If they are not put up right, they are not. Of course I would not advise anybody to eat canned goods.

Q. Did you advise them not to eat canned goods?

A. I don't remember.

Q. You don't remember whether you advised them to eat canned goods or not? A. I don't remember.

Q. Did you think their case at any time was a serious case? A. John's, I did.

Q. When did you first believe his case to be serious?

A. When he was at Nome—about the time he got there.

Q. How often did you visit him, do you remember, having a serious case on your hands?

A. If I thought this was coming up I would have brought my book along.

Q. You don't remember now? A. No, sir.

Q. Was the case serious enough for you to prescribe a certain diet?

A. Well, of course, I don't recollect that.

Q. I will ask you, Doctor, if you made any analysis of the food on the "Valencia" which was served to the Grismores and of which you say they were complaining?

A. No, sir.

Q. And which you say was impure?

A. No, sir, I didn't make any analysis of it.

Q. No chemical analysis? A. No, sir.

Q. And no analysis at all?

A. Only from my observation.

Q. Now, in what did its impurity consist?

A. Stinking meat and uncooked vegetables, steamed in an old boiler—and they steamed it so badly so that you could not cut it in two.

Q. Is it impure?

A. I claim that a potato is not healthy if it is not properly cooked.

Q. Is a potato impure if it is not properly cooked—does half cooking of vegetables make them impure; is that what you call impure food? A. Yes, sir.

Q. That is what you call impure food, is owing to the cooking?

A. No, I call impure food, potatoes or anything else when you would cut them open and they would be raw inside, and they were very inferior potatoes.

Q. How often would you cut them open?

A. I didn't cut them open much, but I saw a great many cut them. I went and bought my grub at the stewards, most of it. It got so bad I could not eat it.

Q. What interest have you got in the outcome of this case?

A. Nothing at all—no interest whatever. These are just patients of mine and they wanted me to testify.

Q. Did you make any complaint to the officers of the vessel of the treatment you received?

A. No, sir, I did not make any complaint at all. There was so many complaints made that I thought there was enough without me.

Q. Do you know of any complaints being made personally? A. Yes, sir.

Q. Did you hear the complaint made?

A. Yes, sir.

Q. Who made it?

A. Passengers. The captain came down there amongst the passengers and said that he would give five dollars to anybody that would give any information that they were selling grub, and the boys were buying grub all the time.

Q. Did anybody give any information?

A. No, they would not give any information. What were you going to do about it—you would get your head in a lion's mouth, and they kept still.

Q. And you purchased food from the steward's department after you heard the captain make that remark?

A. Yes sir, all the time.

Q. After that, did you?

A. Yes, sir, after that, right along.

Q. And you made no complaint to the captain?

A. No. It was none of my business. There was enough kicking going on without having too many.

Q. You say that you were surgeon for the Santa Fe road? A. Yes.

Q. What place? A. Ashfork, Arizona.

Q. Were you the leading physician?

A. I was the local surgeon.

Q. Who was your next superior in the medical department?

A. Doctor—I forget his name now.

(Testimony of witness closed.)

T. C. SAVAGE, called as a witness in behalf of libelants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. CARROLL.) Mr. Savage, were you a passenger on the steamship “Valencia” on her voyage from San Francisco to Cape Nome between the twenty-fifth of May and the seventeenth of June last?

A. I left San Francisco on the “Valencia” on the twenty-sixth of May for Nome.

Q. You remained on board the vessel until she landed at Nome? A. No, sir, I got off in Seattle.

Q. You left the vessel in Seattle? A. Yes, sir.

Q. You did not go to Nome?

A. No, sir, I didn’t go to Nome.

Q. Did you see, during that voyage, as passengers, Mr. Burt and Mr. White?

A. Yes, sir, but I don’t remember their names at all.

Q. Did you see Mr. Grismore there?

A. I don’t remember seeing him.

Q. What class passage had you on the vessel?

A. I purchased a second-class ticket. I could not get a first in Los Angeles.

Q. What was said when you purchased that ticket?

Mr. GORHAM.—Objected to as irrelevant, immaterial, and incompetent and not addressed to any of the issues in this cause as to what was said to him.

Q. (Mr. CARROLL.) Where did you purchase your ticket? A. Los Angeles.

Q. Of whom?

A. An agent of the steamship company. He reported himself to be, and I purchased a ticket from him.

Q. (Mr. GORHAM.) Who made these statements to you which you are now about to testify to?

A. He made the preliminary statements and then I had statements made to me in the head office in San Francisco.

Q. (Mr. CARROLL.) What was this agent's name?

A. I can't tell you that. It was between Second and Third, on Spring street—their office was there.

Q. Was he an ordinary ticket broker?

A. He was a steamship ticket broker.

Q. The Pacific Steam Whaling Company didn't have an office at that point?

A. Well, they represented themselves as agents for them, and I purchased a ticket from them. I don't know anything about their arrangements. I purchased a second-class ticket there and they said I would eat with the cabin passengers and have a second-class berth, and I went to San Francisco—I left home, I think, on Wednesday or Thursday preceding the twenty-sixth, and I went to San Francisco, and I went on the boat there—I got on the boat and I went to get on the boat they took me down in section B—I forget the number of the berth, and that was down in the bow of the boat, right in the head of the boat, and it was a new bunk and it was clean. It was clean, and there was a new mattress and

it was clean, and a new pillow, and without clothing and without blankets or a sheet, although the mattress and pillows were new and clean—they were new and had never been used, and I refused to go in there, and I got a bed in the second cabin. I ate my meals in the first cabin going up and I did not sleep in there, and I left the boat in Seattle. I did not go through on her on the accommodations that they offered.

Q. (Mr. CARROLL.) You left the vessel here, you say?
A. Yes, sir.

Q. Now, state the reason that you left the vessel here.

Mr. GORHAM.—Objected to for the same reason and as irrelevant, immaterial, and incompetent.

A. I was not satisfied with the accommodations that they gave me on the boat. I paid for second-class passage and a good respectable place to sleep, and they sent me down in the bow of the boat, and it made me sick to go down there in the first place, and I saw what was fed to the passengers that held the same kind of a ticket that I did.

Q. State what you saw as to what was fed to those passengers.

Mr. GORHAM.—We make the same objection.

A. Well, coming from San Francisco to Seattle, the food was not fit to eat; in fact a part of the time there was complaint there—a friend of mine was on the boat—

Mr. GORHAM.—We object to that as hearsay.

Q. (Mr. CARROLL.) State what you know yourself and what you saw.

A. Well, they did not have proper food at all. It was not such as I have been accustomed to eat and I could not and I did not eat it.

Q. Had you occasion to see and know as to the conditions of the steerage in regard to cleanliness?

A. Well, of course, I was down in there and I saw there was people who were vomiting around there, and it was filthy, and I could not stay there at all. It made me sick to go down in there. I am sensitive and it upset my stomach.

Q. How often, if at all, was the place washed and cleaned out during this voyage?

A. I don't know—they washed the decks every night.

Q. Did you get any rebate on your passage when you left the vessel? A. I sold my ticket.

Q. The vessel did not give you anything?

A. No, sir, they tried to prevent my selling it indirectly.

Mr. GORHAM.—I move to strike the answer as not responsive to the question.

Q. What do you know about them trying to prevent your selling your ticket?

A. Well, the prospective buyer said—

Mr. GORHAM.—We object to that as hearsay.

A. (Continuing.) I took a prospective buyer down to the office to see that the ticket would be honored, and they advised him not to buy it—the clerk there did, and I failed to complete the sale of the ticket to that party on that account.

Q. What complaint, if any, was made to the captain during the voyage from San Francisco to Seattle?

A. There was a petition got up by some of the passengers there, signed by a large number of them, I believe, and I could not swear whether I signed that petition or not, but it runs in my mind that I did, but I could not swear positively that I did—I could not make a positive statement in regard to that; but there was a petition got up for better accommodation and better treatment and better food.

Q. What, if any, action was taken by the captain on that petition? A. That I can't say.

Q. Did you have an ample supply of fresh water?

A. I did, yes, sir.

Q. Do you know whether there was any complaint in the steerage about want of water?

A. I didn't hear any.

Q. Was there any complaint in the steerage about the manner in which the victuals were fed?

Mr. GORHAM.—Objected to unless he knows it of his own knowledge.

A. I spent as little time down there as was possible.

Q. Did you hear of any complaint being made?

A. Yes, I heard it generally.

Q. Now, so far as you saw the victuals served and the manner of serving it, what have you to say in regard to its cleanliness and the manner in which it was handled?

A. Well, I saw dinner and breakfast served there—in fact, the meal that was served, I went down there

and tried to eat, but I could not eat the stuff that was put on. I laid for that because that was the first meal out, but I didn't think much of that on account of getting under way, but my observation was at any time that I was down there that it was served in a very slovenly way, and I know that I saw food on the table that was not properly cooked.

Q. Did you observe the nearness of the horses' stalls and the relation of the horses' stalls to the steerage?

A. Yes, sir.

Q. Where was it situated?

A. In the section I was placed in, right over our heads, right over the heads of A and B was horse stalls and horses in there. There was a gangway going down there like that (showing), and section B was there and section A was in the bow, and right around B was horses and everything else, and right at the bottom of the stairway was right where the people had to eat. It was a filthy place. Right over their heads, where they were eating, was the horses, and then there was waterclosets on each side of that, right over their head, and there was a great many sick there, and they were in a terrible condition. I went there once and it was in a horrible condition, and then I went to the waterclosets of the first cabin passengers after that.

Q. How many decks of horses were there above the steerage—this section A and B which you speak of?

A. My recollection is right on the first deck above these horses.

Q. Was there any on the deck above that?

A. No, I don't think so not on the upper deck. Yes, there was, too, on the front; that is my recollection that there was horses on the front above—two rows of horses.

! Cross-Examination.

Q. (Mr. GORHAM.) Were you seasick on the voyage from San Francisco to Seattle?

A. Not really sick, now—I have crossed the Atlantic three times.

Q. I will ask whether you were sick on that voyage.

A. I experienced seasickness to an extent but not to vomit. I was nauseous, but I was not sick to my stomach. I never was seasick, but still I had a pain through my temple caused by the derangement of the flow of blood.

Q. You did on this trip? A. Yes, sir.

Q. In other words, you are willing to admit that you were seasick on the trip without wrenching?

A. They told me—the other passengers said I was seasick, but I was not inconvenienced only by the pain in my temple.

Q. And the nauseous feeling?

A. I did not feel like vomiting.

Q. You said your stomach was delicate; is that true?

A. I had a pain in my head.

Q. You said your stomach was delicate; is that true?

A. I was sensitive down there. I could not stay down there ten minutes without vomiting.

Q. This constituted seasickness?

A. Well, I did not want to stay down there,

Q. How many times did you eat below?

A. I did not eat there at all.

Q. How many times did you go below?

A. My stuff was carried down there in the first place and I went down there—I was down there a half a dozen times.

Q. How many times at meal hour?

A. Two or three times. I went down at the first meal hour and I could not eat anything—I tried to but I could not eat.

Q. Did you make any complaint to the captain?

A. No, sir, but I did to the purser.

Q. When was that?

A. That was after we were out a few hours.

Q. What was the nature of the complaint?

A. I told him that was not what my ticket called for and he said that was my berth on the ticket, section B.

Q. What else happened?

A. I kicked about it, but it done me no good, and I went in and ate with the cabin passengers.

Q. Where did you sleep?

A. I slept, the first night out, I did not sleep at all, and the second night out I stayed on deck all night. The second night out I slept in a berth in the second cabin.

Q. Whereabouts was that?

A. It was on the right-hand side of the ship; I forget the number.

Q. What deck? A. On the second deck.

Q. On the main deck?

A. No, it was down one deck.

Q. Are you a seafaring man? A. No, sir.

Q. You mean it was a deck below the promenade deck? A. Yes, sir.

Q. That is the main deck of the ship—did you sign any petition to the captain?

A. I am not clear about that now; the thing was presented to me and I have not a distinct recollection of it.

Q. Did you read it? A. I remember reading it.

Q. Did you see it presented to the captain—you don't know of your own personal knowledge whether it was presented or not? A. Only what I was told.

Q. Then you don't know what response the captain made to that petition? A. I do not.

Q. What was the nature of that petition?

A. It was a general kick as to the accommodations and food; especially the food.

Q. Was it not especially the berthing of the passengers?

A. It was the berthing and the food. There was a big kick made in sections A and B. They had two; in section C—they had a cook that served the food for those that were in section C, and A and B had another separate dining-room.

Q. For the steerage passengers? A. Yes.

Q. Did you go into both of them? A. Yes, sir.

Q. You are positive of that? A. Yes, sir.

Q. You did sell your ticket?

A. I did sell my ticket, but I failed to sell it to the parties I took down there that were willing to buy it—they advised them not to honor it.

Q. What did you pay for your ticket?

A. Seventy-five dollars in San Francisco.

Q. What did you sell it for?

A. I sold it for sixty-nine dollars and fifty cents.

(Testimony of witness closed.)

F. M. WHITE, intervening libelant, produced as a witness in his own behalf, being first duly cautioned and sworn, testifies as follows:

Q. (By MR. CARROLL.) You are F. M. White, the intervenor in this suit? A. Yes, sir.

Q. You were a passenger on the "Valencia" on her voyage from Seattle to Cape Nome? A. I was.

Q. Between the 25th of May and the 7th of June last?

A. Yes, sir.

Q. What passage ticket did you buy?

A. I bought a second-class ticket.

Q. What did you pay for it?

A. Seventy-five dollars.

Q. Now, what accommodation was given you as a passenger on board that vessel during that trip, where were you placed?

A. Well, I was placed in the steerage.

Q. State the character of the food that was furnished you.

A. Well, the character of the food that was furnished us was unfit to eat, unbearable; it was something that would turn a person's stomach from the odors, and in the first place the food was not cooked, and the Mulligan stew, as they called it, was what a person would call rotten; it had that smell—I guess that would be the best

definition for it, would be "rotten." There was plenty of that character of food.

Q. Now, what were the accommodations as a passenger which you received during the voyage, for sleeping and your comfort as a passenger?

A. Well, the accommodation for sleeping was unbearable also and ruinous to a person's health. In the first place, the air was so foul that a person could not stay there for a few hours at a time, and I was compelled to stay on the upper deck until I had to go down to get warm, and after I would be down there a couple or three hours I would have to come out on account of the smell—it gave me a terrible headache.

Q. What was the condition of the steerage as to cleanliness?

A. Well, I think all the time that I was on the trip that the place was swept out but about twice, and the boxes—the spit-boxes—that were placed in the aisles stood full of vomit, until we raised a complaint and had the ship cleaned out, and the floor also—the smell was unbearable.

Q. What was the character or condition of your berth as to cleanliness when you first occupied it?

A. Well, the berth seemed to be clean enough—that is, the cot was new and the berth was new, but there were steam pipes over our berth that were leaking down on the berth all the time, and there had to be buckets used in order to catch the water to keep our cots so that we could sleep on them.

Q. Did you complain of that condition?

A. We did.

Q. What remedy, if any, was applied?

A. There was none. The answer that I got from the steward was that we would be damned glad to get half as good before we got back from Nome.

Q. Now, what about the water that was furnished you, was that in sufficient quantities?

A. The water was condensed water and we did not have enough of it. Twice a day the water was on tap and if you didn't try to get a drink you could go without or go and buy beer.

Q. Do you know whether there were horses carried on board the vessel? A. Yes, sir.

Q. Where were they carried in relation to the steerage passengers?

A. Well, they were carried in the bow on the first deck and the second.

Q. Above the steerage?

A. Yes, and where their urine would drain down in there—the urine that came from where the horses were stalled on the second deck—the urine would come down and run right in on the table, and the flunkies would come along with a cloth to mop the table off, and he would scatter the urine from one end of the table to the other.

Q. What have you to say in regard to the way your victuals were served as to cleanliness in handling it?

A. Well, it was served out about like they would feed hogs in Missouri. It was piled out on the floor where the urine would run down from the horses—it would fall

down there, and I saw them repeatedly put it back in the pans. The pans were set down on the floor where the urine and sweepings from the horses came past the steam cookers, and then the bottoms of the pans were stuck on the top of each other and the urine and dung was right down on it, and carried down for humans to eat.

Q. Was there any complaint made to the Captain about that? A. There was a bitter complaint.

Q. What remedy, if any, was taken by him, by the captain, to rectify the matter?

A. The conditions of the food was not changed any, but that was the first time after we circulated the petition that our quarters hadn't been cleaned out that they emptied the spit-boxes and made a half-way attempt to clean out; and that was the only time on the entire trip that it was cleaned out—there was a pretense made of it you understand.

Q. Did the captain come down into the steerage?

A. After we circulated the petition and there was considerable agitation going on he went down stairs once—that was the only time, I believe, I saw him coming down there.

Q. How many times, if at all, did you see officers of the vessel down in the steerage, looking after the interests of the passengers?

A. The officers never would go down unless there was some commotion going on, and the first officer would go down, and I guess he was down there about twice—that is twice to my personal knowledge he was down

there; that is pretty near when it came ending up in a riot.

Q. What was the cause of this trouble which you had reference to when you say a riot?

A. The cause was about the bringing down of the rotten Mulligan's stew to the passengers to eat.

Q. What was the condition of your health, physically or otherwise, when you went on board of the vessel?

A. My health was first-class when I went on board the vessel.

Q. Do you know about how much you weighed?

A. Yes.

Q. How much?

A. I weighed one hundred and eighty-five to one hundred and eighty-six pounds.

Q. What do you weigh now?

A. One hundred and sixty-three.

Q. Did you have any sickness during that voyage?

A. I did; I was sick nearly all the entire trip.

Q. Were you treated by a physician?

A. Yes, sir. I was treated by Doctor Childs—I had dysentery and fever.

Q. Do you know what produced your sickness?

Mr. GORHAM.—Objected to as irrelevant, immaterial, and incompetent, and the witness is not shown to be competent to answer.

A. I could not say what produced it, but then I think of course that it was the food that produced it. I had never been bothered before with anything of that character.

Q. How long have you been sick since you left the vessel? A. Ever since—more or less.

Q. Where have you been for the last three or four weeks? A. In Everett.

Q. Were you sick while there?

A. Yes—I am taking medicine up to the present time for hemorrhage.

Q. Were you under the treatment of a doctor in Everett?

A. No. I have gone to the drug store and got prescriptions.

Q. Did any physician in Everett treat you at all?

A. No special physician.

Q. Did you have a physician at any time while you were there?

A. No, sir; I have been very sick while I was there a time or two, though; I had two hemorrhages since I came off the boat.

Q. Did you have any freight or baggage on board that vessel? A. I did; yes, sir.

Q. Did you pay anything for the carriage of that baggage or freight to Cape Nome?

A. I paid fifty-two dollars freight, yes.

Q. When did you land at Cape Nome?

A. I should judge it was about the 17th.

Q. Did you get your freight and baggage at that time? A. No, sir, I got nothing.

Q. How long were you kept out of your freight and baggage?

A. I was kept out of the freight and baggage about ten or twelve days.

Q. Now, what did you do during those ten or twelve days to protect yourself at Cape Nome—that is to say, what use could you have made of your freight and baggage during the ten days in case you had it?

A. Well, we could have made valuable use of it. If we had it at that time we would have gone up the creek to dredge, which we went there for, to run a small dredger in the creeks and rivers.

Q. Now, what, if any, was your loss or damage or injury in the way of profits or money matters caused by the nondelivery of this freight and baggage to you?

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent, and too remote, and not the proper measure of damages for failure to deliver.

Q. What profit, if any, could you have made during those ten or twelve days if you had use of this machinery which you speak of?

Mr. GORHAM.—Same objection.

A. Well, we could make use of it; we would evidently have made big money at that time, we could have got in on good property, but our freight was retained so that when we got it we could not get in on good property.

Q. What was such property paying a day at that time, during the ten days that you were unable to use your machinery, and hadn't got it?

A. There was parties making all the way from twenty-five to a hundred and fifty dollars a day.

Q. What was your time worth during that ten or twelve days, what could you have earned?

Mr. GORHAM.—Same objection.

A. Well, it was worth at least a hundred dollars to us—property that we could have got—that we could have operated with it.

Q. Now, was there any other use you could have put this freight and baggage to if you had it during the time you speak of?

Mr. GORHAM.—Objected to as leading and irrelevant, immaterial, and incompetent.

A. Well, we could have put it into a great deal of use. If we had our baggage we could have had sleeping apartments, and would not have to sleep out on the beach, and contracted colds and sickness. We had nothing to do and if it had not been that a God-send—I don't know how else to term it—that sent the fish up on shore and that let us catch what fish we could eat, we would have gone hungry.

Q. How long were you exposed, if at all, to the elements there, that is the weather?

A. Well, there was a period of ten or twelve days before we got our freight and stuff we had to sleep around exposed to the weather on the beach.

Q. Now, what accommodations, if any, did you have in this baggage for sleeping and for tenting purposes.

A. We had everything. We had our bedding and our tent and provisions and everything that was required and necessary for a man to have on a trip of that kind.

Q. What did you have, if anything, to sleep on?

A. Before our freight came?

Q. No, as a part of your freight, belonging to your baggage and freight.

A. We had cots and mattresses to sleep on—army cots.

Q. Now, what, if any, could you estimate your injury and loss and damage by reason of the nondelivery of that property to you?

Mr. GORHAM.—Objected to as irrelevant, immaterial, and as calling for a conclusion, and not the proper measure of damages, and it is not claimed in any event that the baggage was never delivered.

Q. (By Mr. CARROLL.) I mean the delay in the delivery.

A. Well, the delaying of the delivery, I think, caused my sickness to a great extent, having to sleep on the beach there in the wet sand, and it rained on us twice and we were exposed and got wet. Our clothing was saturated; and the dredger, when we got that, there was four or five pieces that were missing, that we didn't get at all and so we could not set the dredger up, and of course we had to go hungry.

Q. What was the value of the parts that they did not turn over to you?

A. Well, it rendered it unfit to set the dredger up—there was parts of it we could not replace at all.

Q. Where did the vessel go to after she landed you, if you know?

A. No, I don't know where she went. I know she was gone out of the harbor.

Q. She left the harbor at Cape Nome after she landed you passengers? A. Yes.

Q. And carried away your freight and baggage?

A. Yes.

Q. And she returned when?

A. Ten or twelve days.

Q. And then landed your freight and baggage?

A. Yes, and we had an understanding—I had, particularly, and Mr. Burt that our baggage and stuff was on shore before we went off, and we protested in going ashore before we had our stuff off, and they said it was on the shore, otherwise we would not have gone off the boat.

Q. Now, detail, as nearly as you can, your suffering growing out of the want of your tents and materials to supply yourselves a home or a place to sleep or lodge in.

A. Well, I lay to that trip my suffering and exposure I was put to by being deprived of those necessaries being the wreck of my health. I think my health is gradually getting worse. I don't think there was a stronger man in the state than I was before I got on board the vessel, and it would not be hard to find plenty of them stronger than I am now. I have had two hemorrhages since I got off the vessel and I have been sick continually; I caught cold—I have never been shut of a cold.

Q. What have you to say in regard to the condition of the watercloset in the steerage department?

Mr. GORHAM.—Objected to as leading.

A. Well, the waterclosets were overflowing every time I went there; they were crammed up full and running over on the floor, and there was a great deal of the

time that a person could not get in there whatever, and you would have to stand in line and wait in order to get in the closet, and several times I was compelled to go in behind the horses.

Q. Was that condition known to the master, do you know? A. Yes, sir, that was in the petition.

Q. You know that petition was handed to him?

A. The petition was signed by—

Q. Was it handed to the captain? A. Yes.

Q. What action, if any, did he take to remedy your complaint?

A. We found none whatever; only, as I say, as to the boxes they were emptied out, and the lower part was swept out.

Cross-Examination.

Q. (By Mr. GORHAM.) Did you sign that complaint? A. Yes.

Q. Did you present it to the captain?

A. No, sir.

Q. Were you present when it was presented to the captain? A. I was standing on the deck.

Q. Were you present when it was presented to the captain?

A. I was not in his presence, but I could see.

Q. You could see what?

A. I could see the party that handed it to him.

Q. You could see the party? A. Yes.

Q. That is all you could see? A. Yes.

Q. Did you hear what conversation took place?

A. I didn't,

Q. You didn't hear it? A. No, sir.

Q. Did you make any personal complaint to the captain?
A. I did not.

Q. At any time on that voyage? A. I did not.

Q. Did you at any time complain to the captain that you were without water?

A. I made complaint to the steward.

Q. Answer my question. Did you at any time make complaint to the captain that you were without water?

A. I did not.

Q. Did you at any time make complaint to the first officer that you were without water? A. I did.

Q. What did he do?

A. He said, "We will have water," but it didn't come.

Q. Now, were you seasick on that voyage?

A. No, sir, I don't get seasick.

Q. You were not sick at all from seasickness?

A. No, sir, not from seasickness.

Q. You left San Francisco on the vessel?

A. Yes, sir.

Q. The Doctor Childs which you say attended you, was the Doctor Childs who has testified on this hearing to-day? A. Yes.

Q. In the Grismore case? A. Exactly.

Q. What medicine did he give you?

A. I could not say.

Q. Did he give you any? A. Yes.

Q. How many different kinds of medicine?

A. Well, there was two or three different medicines; I don't know what it was.

Q. How long did you continue to take this medicine?

A. Until I left Nome.

Q. When did he give you medicine?

A. At different periods on the trip.

Q. Have you consulted any other physician or surgeon other than Doctor Childs in reference to your condition, since leaving the "Valencia"?

A. I have not.

Q. You say you had a dredging outfit? A. Yes.

Q. What was the character of the plant?

A. What was the value of it?

Q. The character, not the value.

A. It was a clam-shaped dredger.

Q. How much did it weigh?

A. I don't know exactly how much it weighed; I should judge a couple or three hundred pounds.

Q. Then you were taking that up as a gold seeker?

A. Yes.

Q. What was the name of the dredger?

A. It had no name.

Q. Whose make was it?

A. It was made by a party in Sacramento.

Q. Where did you buy it?

A. In Sacramento.

Q. Were you a resident of Sacramento?

A. I was at that time.

Q. What was your occupation?

A. I was working in the foundry.

Q. In what capacity?

A. I was carrying melted metal as one of the helpers.

Q. How long had you been doing that work?

A. All the winter.

Q. The winter of 1899 and 1900? A. Yes.

Q. And what was your general occupation?

A. My general occupation has been a stock-rancher and farmer.

Q. In what place, State and county?

A. In Ventura county, California.

Q. Did you own a ranch there? A. I did.

Q. How many acres?

A. One hundred and fifty-four acres.

Q. How many head of stock did you have?

A. Between two and three hundred head.

Q. Now, how long did you occupy position as helper in carrying melting matter in the foundry?

A. I went in there a little after Christmas.

Q. How long did you remain?

A. I remained until I got ready to go to Nome.

Q. About the first of May?

A. I should judge about the 15th of May.

Q. And what effect did that character of work have upon your health?

A. None whatever—not only that, but I was well liked by all the bosses there and they told me to come back.

Q. When you arrived at Nome and went ashore did you go out on the creeks to secure locations under the laws of the United States, placer mining locations?

A. I did not.

Q. Why not—

A. We had no tent and no equipment whatever for living, and we were not provided with any conveniences for prospecting and looking up claims—we were expecting to get our freight.

Q. You had never been in the mining business before?

A. Yes, sir.

Q. Where about?

A. In Kern county, California.

Q. What part of Kern county?

A. Out in around Bakersfield and in about Randsburg.

Q. What were you mining for near Bakersfield, in Kern county?

A. I went through that vicinity and I was mining for placer gold—running a dry washer.

Q. During what season of the year?

A. That was during the summer and fall.

Q. Did you see any miners at Nome prospecting without tents? A. I did not.

Q. Don't you know, as a matter of fact, that it is the custom for the stampeders in Alaska, and especially at Nome during this last season, to prospect all over the peninsula between Norton Sound and the Arctic Ocean without tents?

Mr. CARROLL.—Objected to as irrelevant, immaterial, and incompetent.

A. No, sir.

Q. How much did you prospect at Nome?

A. Well, I didn't prospect but very little, in fact I was not able to.

Q. How much did you prospect?

A. Well, I was out I should judge seven or eight different times.

Q. How long did you remain at Nome?

A. I remained there from the time I landed on the seventeenth of June, until the latter part or the middle of August or somewhere along there.

Q. Now, you say that by reason of the failure to deliver your dredger at the time you were put ashore that you missed opportunities of securing property?

A. Exactly.

Q. Now, state on what creek that property was located which missed.

A. It was options given on property on Snake river.

Q. By whom? A. It was lays given—

Q. By whom?

A. I didn't understand the name of the party, but they were options given. I didn't start to hunt out any because I did not have the material.

Q. Were those options given in the town of Nome or out on the river?

A. They were given by parties that owned the claims so I was told; I don't know that to be a fact.

Q. How many dredgers ever went to work on Snake river during the season of 1900 at Nome?

A. There was one very extensive one operating when I left there.

Q. How many, I said.

A. Well, I don't know how many. There was one being built there—another being built to operate.

Q. That is two—how many more?

A. That is all I know of.

Q. So that there was plenty of property still left after those two dredgers for you to put your dredger in?

A. No, sir. I could have got in before that dredger went to work if I had my dredger there.

Q. Which dredger, the Milwaukee dredger, the big one? A. Yes.

Q. Right back of West Nome across the bridge as you go across the bridge?

A. Yes, sir, across the bridge.

Q. The big white painted dredger? A. Yes.

Q. And you could have had that property if you had your dredger?

A. There was a dredger being brought up from Lane's railroad. It was built or operated right in front of Lane's station and it was crossing right over on the Snake river and there was other claims—

Q. And you could have the claim that dredger was working?

A. If I had had my dredger there I would have gone out and searched for such lays and I would have got in.

Q. How do you know that you could have got in?

A. I would have had as good a chance as another.

Q. You don't know any particular piece of property that you could have got in on.

A. I know that property was on the market to be worked on shares.

Q. Don't you know that all Snake river was on the market to be worked on shares?

A. It was monopolized—everything that would justify a man's working—all the profitable ground.

Q. How do you know what was the profitable ground in Snake river?

A. I know from what experienced miners say.

Q. That is all you know—it is simply the statement of experienced miners—now, is it not a matter of fact that there is room enough for fifty dredgers from the mouth of Snake river, from Anvil creek where it runs into Snake river?

A. It does not pay from the mouth.

Q. How do you know?

A. Because prospectors told me.

Q. How do you know—they could not tell without trying it?

A. They could test it without working it—they could take the sand bar and go out there and test the sand and gravel.

Q. How far would they go down?

A. They could go down as far as they liked—it could be worked at a profit four or five feet.

Q. What was the profit being made on this dredger which you speak of?

A. Well, I don't know how much gold he was taking out, but he said he could make good wages on it.

Q. That is all you know?

A. Well, he said he could make good wages on it.

Q. What interest did he make on his investment of the dredger?

A. All I know is that he kept pretty steady at work and he must have been making something.

Q. How long did he keep at work?

A. He was working when I left there.

Q. You don't know how much he made?

A. No, sir.

Q. You don't know how much his dredger cost—it was a great, big vessel.

A. It was a small dredger, I would judge would cost twelve or fifteen hundred dollars, with steel buckets.

Q. It was on a scow? A. Yes, sir.

Q. What was the size of the scow?

A. I should judge fifty or sixty feet long and twelve or fourteen feet wide.

Q. And how high was the superstructure of the dredger above the water line?

A. I don't know; I should judge about twenty feet.

Q. And you say that dredger cost with the scow about twelve hundred dollars?

A. About fifteen or sixteen hundred dollars.

Q. You know that do you?

A. No, sir, I don't know that; it is guess work.

Q. Don't you know, as a matter of fact, that it cost something like ten thousand dollars to place that dredger where it was placed—don't you know that, as a matter of fact?

A. I know he told me he could put up one like it for twelve hundred dollars, scow and all—he would rig one up for me if I wanted it.

Q. And he would furnish the material?

A. Yes, sir, he would furnish the material for that; he would put one up like it for twelve hundred dollars.

Q. How many thousand feet of lumber was there in the scow? A. I don't know.

Q. How many thousand feet of lumber was there in the superstructure? A. I don't know.

Q. What was lumber worth at Nome?

A. I took his word for it and that is all I know—the same as if you would ask me where New York was.

Q. What was lumber worth at Nome?

A. Various prices. When I left you could get it for forty dollars a thousand.

Q. What was this man's name that you talked to?

A. I forget his name now. I met the man and talked with me in conversation at different times, three or four different times.

Q. Did you make any effort at any time to get an option on any of the Snake river property for the purpose of operating the dredger?

A. I did not, because I could not operate it.

Q. And you say that you could have made a thousand dollars a day? A. I didn't say that.

Q. A hundred dollars a day?

A. Yes, sir.

Q. Net?

A. I should judge I could get as much as that.

Q. From what do you form such a judgment?

A. From the amount of gold that would be panned out of the sand right there in the mouth of the Snake

river—from the mouth of the Snake river up on this bar where we could have operated.

Q. How extensive did you exploit that bar?

A. Well, there was parties there that I got to move my material up on the sandspit that had prospected it.

Q. I don't want their opinion or result; I want your result.

A. I prospected it one evening myself, and I got down and I got some sand out and panned it out, and I should judge about two shovels full of dirt there was seven or eight cents worth of gold in it.

Q. And from that you formed your judgment that you would have made a hundred dollars had you been able to operate your dredger?

A. A person that could handle fifteen or twenty tons of dirt ought to be able to make that.

Q. You say there were only two dredgers operating on the river which you saw? A. Yes, sir.

Q. Now, did they corral all the river?

A. Certainly not.

Q. There was a great many thousand people at Nome with machines lying idle.

A. Right upon the beach there was.

Q. And notwithstanding the fact that there was pay ground in the Snake river to be had for the asking upon which they could make a hundred dollars a day?

A. Not to be had for the asking.

Q. An option could be had for the asking.

A. At one time it could be, yes, got on lays, yes, sir.

Q. Now, don't you know, as a matter of fact, anybody can go and dredge in the Snake river, a navigable stream, without regard for what the riparian owner can say about it—don't you know that is the law?

A. It don't seem to work up there if it was.

Q. Did you hear of anybody being stopped of working in Snake river?

A. There was parties there that had claims staked out that took the entire bar across the river.

Q. Did you hear of anybody being stopped from operating and dredging in the Snake river who had not an option from the riparian owner?

A. I did not hear of anybody being stopped by the riparian owner, because those parties had made satisfactory arrangements with the parties that claimed them.

Q. Did you hear of anybody else being stopped.

A. No, sir.

Q. And there was all this hundred dollars a day ground lying idle?

A. Those parties had an option on it.

Q. On the whole of Snake river?

A. From there down where I could have got it.

Q. On the whole of the river?

A. On that part of it.

Q. There were other parts equally as good.

A. I suppose they didn't bother the other parts of it, but there is no mining up there, because it don't pay except in streaks.

Q. How do you know it don't pay?

A. I know it only from parties that had prospected it, that was enough for me. I know that by good, honest miners and good prospectors, and that is good enough testimony for me.

Q. Well, they were prospecting in Eldorado and other creeks in Dawson thirty years ago by good reliable miners, and they did not discover it until 1897.

Mr. CARROLL.—Objected to as irrelevant, immaterial, and incompetent.

A. They didn't happen to strike the right spot.

Q. Now, when your dredger was delivered to you on shore, what pieces were missing?

A. Four or five pieces.

Q. What were they? A. There was parts—

Q. Name the identical pieces.

A. I don't suppose I could name the identical pieces—

Q. Well, name its office or its function.

A. Well, there was part of the equipment of the dredger, the hoisting apparatus.

Q. What was it, wood or metal?

A. It was both.

Q. What was the size of it?

A. They was three by three.

Q. Wood or metal? A. Wood and metal.

Q. Explain it to the Court.

A. Well, they were cast metal all joined together.

Q. That were missing? A. Yes, sir.

Q. Did you receipt for the freight?

A. No, sir, there was no receipt about it; it was catch-as-catch-could.

Q. Did you receipt at all?

A. I did get a receipt for that.

Q. I mean did you receipt for the freight up there when it was delivered to you.

A. No.

Q. Did you go to the office and make any statement that there were parts missing?

A. I did.

Q. To whom did you make the statements?

A. I don't know the party—it was a party that was in charge of the office.

Q. Captain Humphrey?

A. He was a young fellow, and a very insulting fellow—he didn't give a damn whether you got anything or not.

Q. What complaint did you make to him?

A. I told him there was parts of the dredger that was missing and he said he guesesd that it was all there, and he never hunted it, and I had it scattered for a mile up and down the beach.

Q. This dredger?

A. Parts of it, the equipments of it.

Q. Scattered for a mile?

A. Scattered for a mile up and down the beach from the main wharf down there the N. A. T. place, from there clear down the beach we found parts of it scattered up and down the beach dumped off here and there.

Q. How did you happen to get it at all—did you go around and search for it yourself?

A. We had to search for it.

Q. How do you know that you didn't take some other fellow's dredger?

A. Every one is supposed to know his own property.

Q. Was yours the only one of that kind?

A. Yes, sir.

Q. Why did you receive it at all if it was not in good order?

A. There was a duplicate of ours that went there.

Q. I say, why did you receive it at all if it was not in good condition when it was delivered?

A. I supposed we would get it all collected together and I was glad to get it.

Q. How did you know where to look for it?

A. I didn't particularly—we searched for it.

Q. Went up and down the beach for a mile?

A. I didn't say exactly a mile.

Q. You said a mile.

A. It was close to it, I should judge.

Q. Three-quarters of a mile.

A. You know where their tent was located, I suppose, do you? You know where everything was put off there at first where the tent was? We got this right at the foot of this wharf, the N. A. T. wharf.

Q. You got most of it right there?

A. We got some of it there.

Q. Did you receive it from the scow as it was put ashore? A. No, sir.

Q. How did you receive it?

A. We received it as we found it, as it had been dumped off on the beach. As everybody else was taking it, we had to take ours and I went up. I went up to find it at the tent where everything should be put off and we could not find it there.

Q. Do you know how many people had arrived at Nome at the time you landed on the shore there on the 17th of June? A. I don't.

Q. Approximately. A. I don't.

Q. Had there ten thousand people arrived at that time, or ten hundred, or one hundred, approximately?

A. In guessing at it, I should judge there was three or four thousand people there.

Q. Up to that time? A. Yes, sir.

Q. Who was with you in your party?

A. Mr. Burt.

Q. You and he went together? A. Yes, sir.

Q. Did you have any other friend there?

A. No, sir.

Q. Everybody strangers to you?

A. Most everybody.

Q. Except those people that went on the steamer?

A. Yes, I got acquainted with parties on the steamer.

Seattle, October 10, 1900, 10 o'clock A. M.

Continuation of proceedings pursuant to agreement.

Present: P. P. CARROLL, Esq., Proctor for the Libelants.

W. H. GORHAM, Esq., of Proctors for the Claimant.

JOHN T. GRISMORE, one of the libelants, called as a witness in their behalf, being first duly cautioned and sworn, testified as follows:

Q. (Mr. CARROLL.) You are one of the libelants in this case? A. Yes, sir.

Q. How old are you?

A. I was born in 1858, on the 7th day of March.

Q. What is your business?

A. Carpenter and joiner.

Q. Were you a passenger on the steamship "Valencia" on this voyage from San Francisco to Cape Nome between the 25th of May last and the 17th of June?

A. I was.

Q. Did you buy a ticket for that voyage?

A. I did.

Q. Where did you buy it?

A. I bought it in San Francisco.

Q. What did you pay for it?

A. Seventy-five dollars.

Q. What class? A. Second class.

Q. Was there any conversation between you and the person who sold you the ticket as regards your accommodations and where you should eat, and so forth, during that voyage?

A. I bargained for my ticket and made a proposition for my ticket, and at the same time made a deposit of fifty dollars for the ticket and took a receipt for the same.

Q. (Mr. GORHAM.) Of whom did you buy this ticket? A. Well, it was the agent as I—

Q. How do you know he was the agent?

A. Because he sold me the ticket.

Q. That is the only reason that you know it?

A. Besides, he kept an office on Market street and sold tickets to other people, and he had his sign out, "Tickets for Cape Nome on the Steamship 'Valencia.'"

Q. Was not he merely a broker?

A. I do not know, sir.

Q. What was his name?

A. I do not know his name.

Q. What was the place?

A. I think it was 560 or 660, or somewhere along there, on Market street, just a little below the Palace Hotel.

Q. Towards the ferry?

A. Towards the ferry.

Q. On the same side of the street as the Palace?

A. At one time it was there and a fire or something made him move across the street.

Q. Over near the Postal Telegraph Office?

A. I think so; I think a little below.

Q. (Mr. CARROLL.) How many tickets did you buy?

A. I bought one for myself and for my brother.

Q. How much did you pay for your ticket and your brother's? A. Collectively or separately?

Q. Separately—each ticket.

A. Seventy-five dollars.

Q. Each? A. Each, yes.

Q. Now, what conversation, if any, took place between you and this agent regarding the accommodations on the "Valencia"?

Mr. GORHAM.—I object to that as immaterial and irrelevant.

A. Well, this is what he said: I asked him—I had been to other steamship companies and I thought it to my best interests to buy one there, for the reason that

I could get a cheaper rate to start with, for the same class; and that I could not get first class at all, and the steamship "Valencia"—I knew the ship very well, I had fitted it up as a transport, and I knew that ship just as well as I could know it. And I asked the man if I was to ride down there where the soldiers did, and he said, "No, sir." And he showed me the deck plan of the ship. And he says, "You are up forward of the main house on the main deck"; he says, "We will have quarters fitted up there for you and you will be as comfortable as any on the ship, and you will be treated as good as any first-class passenger and will have as good food as any first-class passenger, and you will be allowed the privilege of the ship," which I was, but I did not get the food, nor I did not get the good passage. When I came on board it was very late, I only left my home in time to catch it, and if I had missed the ferry-boat I would have missed the boat. I came over and when I was shown to my quarters—I was shown them and I protested.

Q. What was the condition of your health and your physical condition when you went on board of the vessel?

A. It was very good, sir.

Q. Were you able to follow your ordinary occupation?

A. Yes, sir, I was, and I had been to Alaska the year before and was in excellent health and I would not have thought of going back if I had not been.

Q. What were you able to earn when working?

A. Here? I get three dollars a day here; I get the best wages wherever I am at any time, three dollars and a half

a day at home. At Nome I got one dollar and a half an hour when I worked and two dollars an hour; one dollar and a half to two dollars.

Q. What is the condition of your health and has been since you left the steamship "Valencia"?

A. Well, immediately afterwards I was not in good health at all; I seemed to be—I do not know—I had a dysentery brought on me, if I ate meat it would bring on dysentery, that is temporarily, and gases and such things as that came from my stomach, and if I ate heavy food it lays in my stomach just like a rock and this inconveniences me and distresses me a great deal.

Q. What is the condition of your health now?

A. Well it is normal, it is not just exactly—I have only one complaint now, and that is if I eat a piece of meat it gives me dysentery; and I do not eat heavy food. I eat light food, such as milk and eggs and brown bread and cornmeal mush, or something of that kind. I do not eat the same kind of food I did; my doctor instructed me not to, and told me not to for three or four months.

Q. What means have you now, at the present time, for supporting yourself and defraying your expenses at this time?

A. My occupation or trade.

Q. Are you able to work steady at that?

A. Not at all times; no sir. That is, I am able to work, but I work under great disadvantage, and at times I ought to be resting when I am at work.

Q. You have no means other than your daily earnings?

A. No, sir, not at present. I have had, but not now.

Q. What was the condition of the vessel at the time you were on her as to accommodations for the passengers in that department which you occupied?

A. Well they were overcrowded. They were three decks high and two wide—that is, two bunks wide and three bunks high. They were all on the deck below the hurricane deck; they were overcrowded and there was no ventilation with the exception of the big hatchway; and there were no lights but about ten or eleven incandescent electric lights, and I do not believe they were more than half enough, and it was very filthy below. The fact of those people being seasick when they first left there made it very bad.

Q. What was its condition during that voyage as to cleanlines in your department?

A. It was filthy and dirty beyond mention.

Q. Was the captain or officers at any time during that voyage made aware of the condition of that apartment?

A. They were because I did so myself; I told him so and complained to the first officer myself.

Q. What was the condition of the food that was served you during that voyage?

A. Well, the food was enough; there was an abundance of it and up to as far as this place it was good enough if properly served and properly cooked, but it was improperly served and only half cooked. Not an article that I had seen was in fact properly cooked on board of the boat on that voyage, except the bread, and that was very good, to the time we got here. The meat after we left here was—well, it was spoiled, to say the

least it was spoiled; and worse than that at times; in fact, I had to quit eating it, and every time I attempted it it simply gave me a turn, and that was the result it gave me every time, and I had to run to the watercloset very soon after.

Q. What have you to say of the boat after leaving Seattle?

A. Well, the bread was older—some people do not like stale bread and others do. I like stale bread very well and I had no complaint with the bread part, except when it got about a week old; I did not eat it then because it was musty and smelled a kind of musty smell.

Q. Was this bread musty on the boat?

Mr. GORHAM.—I object as leading.

A. I know that it was because I have cut it up myself with a knife and it was mildewed.

Q. What have you to say of the sea biscuits that were served to you?

A. Well, I am not very much of a sea biscuit eater; I know they were served sometimes for two or three days at a time. Sometimes once a day and sometimes a couple of days at a time, and they were very fair sometimes and sometimes they were not. They were not good at all; they seemed to be old stock, what I would call old stock.

Q. Now, as to fresh water, what have you to say?

A. Well, we had all we wanted up to this place, and after we left here there was not much water. We got water twice a day. I got all the water I wanted because

I went to a stateroom of a friend of mine and I asked for a drink. I know there was plenty on the boat.

Q. Do you know how many head of stock they carried?

A. I do not know; I know there was two big lots of horses and a few dogs.

Q. Where were these animals carried?

A. Directly over us, and the heaving of the ship and the rolling of the ship would keep this stock making a noise, and it would wake us during the night, and keep us awake all night, if the ship was rolling and pitching at night. In the morning they would always clean up around these horses and set them to kicking, and that would always wake everybody up on board of the vessel.

Q. What relation existed, if any, between these animals and the offal that came from them to your place of eating?

A. Well, on the ship, you know the deck is always higher in the front than in the rear, and runs gradually down until it turns up in the back again, and the urine would run down from these horses around where the big steam boiler is that they were cooking the food in. They steamed it; they did not cook it with fire, they steamed it. It was put in big pans and vats and kettles and hot steam turned in, and they they would take out the beans that were to be served on the table and set them down in these pans, and dump out the potatoes and the cornmeal mush or the rice or what they called Mulligan stew, something that I never tasted but very few times, and every time I ate it it made me sick, and

some other kind of stews, I do not know what they were; and the food, the rice and potatoes and such things as that they would set down on top of that and take them down below to the tables. I saw that and I complained to the first officer and he simply laughed about it; and I spoke to the cook about it, and the cook said, "Well, let them provide me with a shelf," and he says, "We cannot cook for so many people without any conveniences."

Q. What was the condition of the waterclosets there as to cleanliness? A. Very filthy.

Q. Were they cleaned at any time or attempted to be cleaned out?

A. I do not know when they first started that, whether they cleaned them the first day or not; I know I complained to the first officer and they were immediately cleaned. I noticed it afterwards, some of the deckhands cleaned it; I do not know who. Then they were cleaned down here; I do not know whether they were cleaned every day or not; I never seen anybody doing it. Sometimes they were cleaned in the morning, and sometimes they would not be cleaned until the next morning, but they were in a very filthy condition.

Q. Do you know of any petition being signed and presented to the captain?

A. I do know of a petition signed and presented.

Q. What was the object of that petition?

A. To better our condition as to the living and cleanliness.

Q. Was the captain informed of your condition in the steerage? A. He was.

Q. What steps, if any, did he take to better it?

A. He promised that he would, but he did not; he made no effort at all; we were not bettered a bit with the exception of cleaning out before they got into this port, and that is all the cleaning out that I ever seen done or attempted to do, and that was only half in my estimation.

Q. Do you know the steward on the vessel?

A. I do.

Q. What steps, if any, did he take to alleviate the conditions you complained of? A. None.

Q. Did he used to visit your steerage department?

A. He and the captain up to the time that we got here, up to the first day before we got here, made their annual inspection at eleven o'clock, but they never made an inspection together; I never saw the captain below more than, I think about two or three times, and that was to settle disputes and rows that were going on or a riot—there was very nearly going to be a riot.

Q. What was the cause of that trouble?

A. Men would go and sit down to the table and not get much of anything, and they would complain to the steward and he would send them to the captain, and the captain would turn him to the steward, and from the steward to the purser, and nobody would have anything to do with it. And another reason was that the food was improperly cooked and not fit to eat, and the meat especially so. There were three stampedes at different

times, and there was seventy-five or one hundred there and everybody got up from the table and went up and I went with them; some of them were more demonstrative than others.

Q. What was the treatment there of the officers and their conduct towards the passengers on that voyage?

A. It was not notable for sociability nor agreeably respectful, and I have seen all of them and talked to all of them. We made complaint and we were snapped up and treated with silent contempt.

Q. State whether or not you know that food was offered for sale during the voyage?

Mr. GORHAM.—I object as incompetent, irrelevant, and immaterial.

A. Well, I bought food myself of the cook, different cooks, in the galley and different negro waiters.

Q. Why did you buy it?

A. The negro cooks sold it and I bought it because I was hungry. I bought it in the messroom and paid for it the same as I would pay in a restaurant. It was for sale to anybody who wanted to buy, and you could buy things from the storekeeper and he offered me a good many nice things just at San Francisco prices. He says, "You cannot eat that." Before I left the ship the storekeeper hunted me up and wanted to know if I would not take a bill of goods and I said I did not think so.

Q. Was a complaint made to the captain about their selling goods?

A. No, sir, I did not make.

Q. (Mr. GORHAM.) Do you know that of your own personal knowledge? A. Yes, sir.

Q. Did you hear the complaint made?

A. Yes, sir, I did. He said, "I will give any man five dollars that will fetch me the man that sold or offered for sale food on the ship. If they will fetch me the man I will give him five dollars." It would have been a pretty big job to have brought him the man. I would not have showed him the man for twenty dollars, because my subsistence and condition depended on it, of getting a decent meal of victuals when I wanted to. I bought it and I paid for it too.

Q. Did anything happen to that vessel on the voyage up between here and Nome?

A. Happened to it?

Q. Yes. A. Nothing except signing a petition.

Q. Anything happen to the vessel itself?

A. Oh, no, nothing that I know of.

Q. Did she offer to give relief to any vessel on the way? A. From San Francisco?

Q. No, from Seattle to Nome.

A. Oh, yes; she ran aground in Behring Sea, off what is known as the Yukon Flats. She sighted the "Rosecrans" one morning or one forenoon and they went up to within a mile or two of her under a slow bell, and then they slowed down still slower and finally they got on the Flats. I should judge the direction in which she was lying was northwest, and he went in very carefully and very slowly and started in sounding, and went under a slow bell; it might have been even slower than a

slow bell, and throwing the lead and he went aground. And he got stuck, and the first officer—I was there at the time looking at the propeller throwing up the mud, and he says, “I want every passenger on the ship to go as far forward as he can.” And we all went as far forward and they worked the engines backward, and he extricated himself and he got out of there.

Q. Did the vessel have to leave her course to go in there after the “Rosecrans”?

A. Yes, sir, his course would not be there.

Mr. GORHAM.—What is the object of this examination? We do not deny that we went in to assist the “Rosecrans,” and failed to get to her.

Q. Do you know of a letter or paper having been given to the captain after leaving the “Rosecrans”?

A. I know of such a paper but I did not see it; there was a letter of commendation for being able to extricate himself out of a very dangerous place, I suppose.

Q. Did you have any freight or baggage on board of the vessel?

A. I had baggage on board of the vessel, but no freight.

Q. When did you arrive at Nome?

A. On the 17th day of June, about nine o'clock in the evening?

Q. Were you put off at Cape Nome when the vessel arrived there that day?

A. I went ashore on the first lighter the next day, in the morning.

Q. On the 18th? A. Yes, sir.

Q. Was your baggage put ashore?

A. It was not.

Q. When did you get your baggage?

A. About five days later—four or five days, I am not sure which; anyway the vessel laid there all day, but she went away and then she came back, and I got my baggage then.

Q. Were you put to any inconvenience, expense, or loss by reason of the nondelivery of your baggage when you went there first?

Mr. GORHAM.—I object as incompetent, irrelevant, and immaterial and not addressed to any of the issues in this case.

Mr. CARROLL.—We shall ask leave to amend the libel so as to conform to the testimony of the witness.

A. Yes, sir; I was put to expense and inconvenience; I slept in another man's tent, and I paid for it; and I had plenty of my own things to take care of myself, and could have saved that expense.

Q. Was your baggage checked? A. It was.

Q. Did you demand your baggage?

A. I did. I went to the agent, I think the second or third day. I do not know what his name was. He was the agent of the Steam Whaling Company, the baggage agent, Captain Humphreys. I went to him and I saw him down there in the baggage-room, and he told me that my baggage was not there.

Q. Now, what expense, if any, were you put to by the failure of the vessel to land your baggage?

Mr. GORHAM.—I renew my last objection.

A. I should judge about twenty-five dollars.

Q. Did you have anything in that baggage that would have protected you from the weather if it had been landed with yourself?

Mr. GORHAM.—I renew my last objection.

A. Yes, sir, I had a tent and I had my stove and my supplies.

Q. State how you suffered or what inconvenience or disadvantages you were caused by the nondelivery of your baggage.

A. How is that?

Q. State what inconvenience or disadvantage or expense you were put to by the nondelivery of your baggage.

A. Well, my baggage contained my living, you might say; my groceries and supplies; it contained my tent and it was a very serious inconvenience to me. It contained my stove, which was quite an inconvenience to live without. When I wanted anything to eat I went and bought it, and I had no other supplies with me other than my grub and my blankets when I left the ship, because the rest of my supplies were all on ship board, checked as baggage, two hundred and fifty pounds.

Q. Now, what did your baggage consist of?

A. It consisted of groceries and meat—I have got some of the bills here.

Q. Never mind the bills.

A. It contained a tent and it contained a stove, and it contained a bill of groceries, the very best staple groceries that I could find, and such as canned milk, and

canned fruit and dried fruit, I cannot enumerate them now without looking at the bills; I have got them right here.

Q. What else besides provisions did you have, tent and stove and so forth?

A. I had my tool-chest tool-box, about eighty-five pounds of tools—it was light.

Q. What cost, if any, was incurred by you by the non-delivery of your tools?

A. Well, if I had felt inclined or felt able to use them when I first arrived there I lost not less than one dollar and fifty cents an hour, and I could have got two dollars an hour, and that would mean about fifteen dollars for ten hours to twenty dollars for ten hours' work, just as you reckon it.

Q. Could you have obtained employment had you had your tools to work with?

A. A man came on board of the ship and tried to employ me before I got off the boat. I do not know who he was, but he came there in a lifeboat and I told him if I had my tools off and had my camp outfit I would talk to him, but I says, "I cannot do business until I am prepared to do so," and he says, "I want some men to come right ashore and bring their tools." And I says, "You will have to get me tools and I will have to feel a little better than I am now before I go to work for anybody."

Q. Now, how long were you subject to the elements at Nome that is, how long were you without covering or tents?

A. Well, I had a tent—I slept in another man's tent when I got there. Of course, my own tent was in my baggage and I slept on the ground for these five days, that is all, and I did not have a sufficient amount to cover me; that is, I do not think I had enough over me and not enough under me.

Q. What, if anything, did you suffer by reason of the nondelivery of your baggage, in the way of inconvenience and sickness, if any?

A. In a financial way?

Q. Yes, sir.

A. I do not doubt that it would amount to ten dollars a day, and I am sure I would not do that for ten dollars a day to have the bad results that I did have.

Q. Has your exposure at Nome affected your health in any way?

Mr. GORHAM.—I object to the question as not based on any former statement of the witness?

A. Prior to that, do you mean?

Q. I simply ask you the question?

A. Well, I think it has likely, I think it has.

Q. How long was the vessel in the harbor at Cape Nome before you went ashore?

A. She arrived at nine o'clock in the evening, on Sunday evening and I went ashore the next day about ten o'clock, between nine and ten o'clock, as quick as they got a lighter there I got ashore.

Q. What, if anything, was done to supply the passengers with meals during that time?

A. Nothing, we had no supplies; no breakfast.

Q. Did you go ashore without breakfast?

A. I did. They tore up the hatches to get the baggage and freight out, and they did not serve us any breakfast.

(At this time a recess was taken until 1:30 o'clock P. M.)

Afternoon Session.

Continuation of proceedings pursuant to adjournment.
Present: As at morning session.

JOHN T. GRISMORE, on the stand for further direct examination.

Q. (Mr. CARROLL.) What was your condition as to your health when you reached Nome?

A. I was very bad; I was sick and incapacitated from following my occupation.

Q. If you had been able to work could you have obtained work and at what pay?

A. The agent or the representative of the Alaska Commercial Company came on board of the ship in the morning early and wanted some men, and I talked with him among a number of others, and he offered me one dollar and fifty cents an hour if I would come ashore and go to work for him. I told him I would do so as quick as I got my tools and felt in a fit condition to do so. I told him I was not fit to work for him, I says, "I am not able to work for you, I am sick." He says, "You are not the man I am looking for." The compensation he offered was one dollar and fifty cents an hour and to put in all the overtime you wanted to—that is, over ten hours if you wanted to.

Q. How many closets or privies were there on board of that vessel that could have been used by the steerage passengers, if you know?

A. There were two and sometimes three—I have seen it when I came that they were locked up by the petty officers and different officers of the ship. And those that were open would be better seen that described.

Q. How many were open at all times for the steerage passengers?

A. Not over two.

Q. How many were there there that could have been used if they were opened?

A. I think there were five on a side, but I am not sure.

Q. Five on a side?

A. Five on each side of the ship I think, either four or five, I am not positive, because I do not ever remember counting them.

Q. That would be how many in all?

A. Well, it would be eight or ten.

Q. Now, out of that how many were opened at all times to the steerage passengers?

A. As I have stated, I have seen one on an occasion or two that I remember at all times, with that exception there was two, and I have seen three; but it was on very rare occasions that I seen the three closets open. Two was the approximate number.

Q. How many passengers did you have in the steerage, if you know?

A. Well, I never counted them, but there was about two hundred and forty in our compartment, and ahead

of us was about sixty more; and the aft steerage, I do not know how many were in there.

Q. Did they all have to use these closets?

A. Yes, sir, I never went into the saloon closet at any time, that is, the first cabin closets.

Q. Did you use these closets in the steerage?

A. I did; there was no place else to use.

Q. What was their condition at all times so far as your information was concerned?

A. Dirty and filthy, covered with filth and dirt, and deposits that had been washed in from the sea.

Q. What facilities, if any, did you observe their having for washing them out?

A. Nothing only the ship's hose, that is all that I know.

Q. Were they washed out with the hose?

A. Only in the morning, when they washed out the horse stalls out they washed them.

Q. That was only done in the morning, you say?

A. Only in the morning.

Cross-Examination.

Q. (Mr. GORHAM.) Are you subject to seasickness?

A. I have been seven times to sea and I never was sick but once in all of the times that I have been to sea.

Q. Were you seasick on this voyage?

A. I was immediately after leaving San Francisco; I was sick after I got outside of the heads about three or four o'clock, and I was sick until the next day; the next day I was so hungry about three o'clock that I could

not wait for the table to eat, and I went down to the cook and bought me something to eat. That was the first time that I was ever seasick.

Q. To what extent were you seasick—did you vomit?

A. Yes, once or twice only. I was standing close to my brother and he says “Will you be seasick?” and I says, “I do not think so,” and it was not a minute until I was sick.

Q. Where is your home?

A. Oakland, California.

Q. Are you a married man? A. No, sir.

Q. How long have you lived in Oakland?

A. It has been my home for about fifteen years.

Q. You have worked around shipyards?

A. Well, I have worked for the Southern Pacific Railroad Company, and I have done a good deal of prospecting and mining in that time.

Q. You own property in Oakland?

A. Well, I used to own some and I own some now—an equity in property there now. It is deeded away in a deed of trust on borrowed money and I owe them money. If I was to pay it out I would own something. My obligations were due last January, some eight hundred and fifty dollars, and I have not paid it.

Q. What does the property consist of?

A. A house and lot.

Q. Whereabouts is it situated?

A. In East Oakland; Twenty-second street, 1181 East Twenty-second street.

Q. What is the extent of the lot?

A. Fifty by one hundred and fifty feet,

Q. What is the extent of the house, is it a frame house? A. It is a frame house.

Q. How many stories? A. It is one-story.

Q. Are you renting that house? A. No, sir.

Q. Who has charge of it? A. My father.

Q. Your father is living in the house?

A. Yes, sir; an old man about eighty-one years.

Q. What is the assessed valuation of that property for the year 1899?

A. I think it was assessed for \$1,000; I am not sure; \$800 or \$1,000.

Q. What is the rate of assessment in Alameda county, California upon a dollar valuation?

A. I do not know.

Q. Is it not one-third; is it not generally understood it is about one-third there?

A. Well, I do not know that it is; that is something that I know very little about.

Q. What did that house cost you?

A. I borrowed to start on \$1,500 to build it, and I have since that time deeded away one-third interest; that is the two of us own it; then I borrowed money at a later time for to go north, and that \$850 stands against me, that is, my equity because I was the one that used the money. My brother and sister in law are the persons who hold that property, outside of myself. My equity is absorbed and taken up by a mortgage to the London Savings Bank in Oakland, California.

Q. How much is that mortgage?

A. Eight hundred and fifty dollars.

Q. How much did the lot cost you?

A. Well, I paid a great deal—I paid just twice as much as it was worth.

Q. How much did it cost?

A. It cost a thousand dollars. Just twice what it is worth because there was not a bit of improvement in that end of town.

Q. You paid it?

A. I did; me and my brother paid it.

Q. And outside of this mortgage you are the owner of that property, or two-thirds of it?

A. One-third.

Q. You are the owner of one-third?

A. Outside of that mortgage, and that mortgage is on all of it; however, it exists between me and the others, and that absorbs my one-third interest; that is, that mortgage stands against my one-third interest. And if I cannot pay it, why the other parties would pay it and I would lose my interest in it, and it is now due over a year.

Q. When did you arrive back in Seattle from Nome?

A. I think we arrived here on the first day of July.

Q. On the first day of July?

A. I think on the first day of August.

Q. On what steamer?

A. I came on the steamer "Senator."

Q. What have you been doing for a livelihood since the first day of August?

A. I worked part of the time and part of the time I have not worked.

Q. How much of that time have you worked?

A. About two-thirds.

Q. In what capacity? A. As carpenter.

Q. How much work did you perform at Nome—that is, how many day's work?

A. Well, I do not know, but I think about twelve days; ten or twelve days.

Q. When did you leave Nome?

A. Well, now, I disremember the date, but it took us eight days and seven hours to come.

Q. You left there about the 21st of July?

A. I do not know whether that is the date or not?

Q. About that time?

A. I think it was somewheres about that but I am not sure.

Q. Did you purchase transportation on the "Senator," or did you come as a member of the crew?

A. I came as a member of the crew.

Q. In what capacity?

A. I assisted the first steward for my passage down here. A man by the name of De Benn.

Q. Where did you sleep?

A. I slept down in the—what would be called the second-class in the "Valencia," or the third-class on the "Senator." I assisted him when I was in the physical condition and able to do so. I could not do it all the time because I was sick.

Q. Did you consult a physician at Nome for your physical condition? A. I did.

Q. Whom did you consult?

A. I consulted Dr. Childs and he gave me medicine right along all the time up there and told me, "The best

thing that you can do is to get away from here"; he says, "You have got a bad derangement of the stomach and bowels," and he said, "This is not a good place for you and the best thing for you to do is to go below."

Q. You took his advice?

A. I did after a time; he told me some time before I went.

Q. When did he first tell you that?

A. Well, I first started about a week after I got to Nome or ten days.

Q. Did you consult any other physician or have you since?

A. I have since consulted a physician on my way down here and he gave me some medicine on the ship.

Q. What was his name?

A. He lives in Cincinnati, Ohio. I have his card.

Q. I do not care for his card. He is a regular physician?

A. He was a passenger on board of the ship and I got acquainted with him.

Q. Now, these horses were on the promenade deck?

A. How is that?

Q. These horses were in stalls built in the promenade deck, and above the promenade deck?

A. No, sir, they were on the main deck and on the promenade deck.

Q. Were not the stalls built up on what you call the fore-castle? A. Yes, you might—

Q. On a level with the pilot-house? A. Yes, sir.

Q. There were horses up there, were there not?

A. Yes, sir; that is on the promenade deck as you call it.

Q. The pilot-house was not on a level with the promenade deck; the promenade deck was on a level with the hurricane deck?

A. The hurricane, as I understand it, is the first deck of the ship; then, below that is the main deck and there was a house on it; one of these decks is on a level with the pilot-house with the main deck.

Q. What is the main deck as you understand it?

A. The main deck was the deck below the hurricane deck or the promenade deck. I do not know what you call the promenade deck, but the hurricane deck is the first deck below the bridge.

Q. That is what you call the main deck, the first deck below the bridge?

A. No, sir; I did not say that; I say that is the hurricane deck.

Q. Below the bridge?

A. Yes, sir. The hurricane deck is the one that is on a level with the bridge; then the next deck below that is the main deck of the ship.

Q. That is where the staterooms open out on the deck?

A. The staterooms are opened out in the deck on the top promenade deck or the hurricane deck.

Q. That is what you call the hurricane deck, is it?

A. Yes, sir; that is the first deck that is what I call the hurricane deck.

Q. Was there a deck above that?

A. No, sir.

Q. On a level with the bridge? A. No, sir.

Q. Do you know what the bridge is—that is where the officers stand?

A. Where the officers walk from one side of the ship to the other on a little narrow bridge.

Q. There is a house built on that ship, is there not, and the top of that house is the hurricane deck, is it not?

A. The house built on the ship as I understand it, in all ships would be the deck above the main deck.

Q. In other words, the main deck was below the hatch?

A. No, sir.

Q. The main deck was on a level with the hatch?

A. The main deck was on a level with the first hatch --that is, where all of the waterclosets were located and where the steward and the purser and these men had their staterooms, and then, above that is where the passengers first-class passengers were.

Q. I am trying to get at what you mean; I am not trying to confuse you but I am trying to find out what you mean by the different decks.

A. I am trying to explain that where the captain made us all get off the horse stalls or the stable was built, so that he could not see to navigate his vessel and there was lots of us that went right ahead on top of that, and coming in here we had to get down because we were in his way. There was lots of hay up on top of the horse stalls were, and we would go up there and sit down and lay down, to keep out of the wind. These were the

first horse stalls, and then down below that on the main deck was the next horse stalls.

Q. And there was nothing below, on the main deck where the horses were kept?

A. No stock was kept; there were passengers on the next deck below that.

Q. Did you feel any signs of relief when you got off the boat at Nome?

A. Not immediately, sir, nor for a number of days afterwards.

Q. You camped on the sandy beach there at Nome when you got off the ship?

A. I camped up a little above.

Q. On the beach?

A. It was away back from the beach.

Q. It was not on the tundra? A. No.

Q. It was below the tundra?

A. It was about twenty or thirty feet from the tundra.

Q. Have you consulted any physician here in Seattle as to your physical condition?

A. No, sir; I have followed the advice and taken the medicine that was given me on prescriptions that I have had filled since I have been here only.

Q. Are you taking medicine now?

A. No, not just now; I have just quit a few days ago. I do not want to take medicine any longer than I can help it.

Q. How many times did you complain personally to the captain of the discomforts you were put to?

A. Not once, but I did to the first officer.

Q. How many times did you complain to the captain of the uncooked character of the food?

A. I did not complain to him at all; I complained to the steward and the first officer.

Q. How many times did you complain to the captain of the uncleanly condition of your quarters on board of the vessel?

A. I complained to the captain once about the closets, and I told him they were not fit to back a cow in, and also complained about the filthy condition of the ship, that was before we got to Seattle, and it was immediately attended to, that part of it, and never was attended to but once afterwards.

Q. Did you complain after that?

A. I never complained to him after that. I complained to the first officer, the first mate of the ship.

Q. You had the entire privilege of the ship you stated?

A. No, sir, I did not; I had the privilege of the ship with the exception of the social hall and the dining-room—that is, the first cabin dining-room.

Q. I do not mean the privilege of eating at the first table, but you had the privilege of the spaces on the ship that the first-class passengers had?

A. Yes, sir—that is, the walking about; but I had no privileges of the social hall. There were notices posted up.

Q. Did you go into the smoking-room?

A. No, sir; that is the place where the notices were posted; we were not permitted there, and I did not go. I never went in there except once.

Q. Now, these stampedes you speak of; when did the first stampede occur?

A. It was a day or so after leaving Seattle.

Q. After leaving Seattle? A. Yes, sir.

Q. And how many were engaged in that stampede?

A. Oh, a hundred or more of the people that were at the table.

Q. And where did they stampede to?

A. Right to the captain on the bridge.

Q. Were you among the number that went up there?

A. Yes, sir, I was in the crowd; I did not go to him, but I was in the crowd that went up and left the table.

Q. Did the captain send the first officer down to see what was the matter there?

A. I think he did once.

Q. I mean at this first stampede? A. No, sir.

Q. Did he send anybody down? A. He did not.

Q. What did the captain say, if you heard him say anything?

A. I did not hear him say anything. I saw that he had quite a lot of men around him and they were not well satisfied; they were a pretty angry lot of men.

Q. That was the first complaint that you had assisted in since leaving San Francisco, was it not?

A. With the exception of complaining to the captain personally about the spit-boxes, and the filthy condition of the decks and *out* sleeping compartment.

Q. You had complained of them to the captain?

A. Yes, sir.

Q. Before leaving Seattle?

A. Yes, sir, before arriving in Seattle?

Q. That was the only complaint up to the time of arriving at Seattle that you made? A. Yes, sir.

Q. And the only cause of complaint that you had?

A. No, sir, I did not say so.

Q. That was the only complaint that you made?

A. That was the only complaint that I made personally. I did not make it but others did.

Q. Now, when did the second stampede occur?

A. After leaving Seattle?

Q. That is, after you left Seattle?

A. Well, I do not know if there was any other one before we got to Dutch Harbor, but I think there was; I was not engaged in it.

Q. You had nothing to do with it?

A. Well, I seen it was no use; it had not accomplished anything, and what was the use?

Q. That was your conclusion?

A. That was my personal conclusion.

Q. Now, the third stampede?

A. Yes, from there up to Nome I think there was two to the best of my recollection.

Q. From Dutch Harbor to Nome? A. Yes, sir.

Q. And did you engage in both of these?

A. I did not engage in either of them.

Q. So that you did not go to the captain on either of these stampedes?

A. No, sir, about a hundred men did.

Q. But you did not?

A. I did not. It amounted to just the same as before

when there was a hundred of them; it didn't do any good, none of them; there was nothing righted or benefited or gained by it, only angry words and disputes.

Q. You say you saw the captain below two or three times? A. Yes, sir.

Q. During what part of the voyage was that?

A. He came down on his regular inspection at eleven o'clock; he and the steward, I think about twice; the day out from San Francisco and the third day he did not come, he was on the bridge all day, from the time they came into the straits. I do not think that he went off it, unless it was to eat; I never saw him below any more I do not think, more than three times, and I think there was one of those times from here to Dutch Harbor, and I think that was at the time these disputes and riots were there, that was in Behring Sea on the way to Nome.

Q. When did he offer this five dollars reward?

A. That was on one of these occasions they went to him about the unwholesome condition of the food.

Q. After leaving Seattle?

A. After leaving Dutch Harbor.

Q. How long did it take you to go from Seattle to Dutch Harbor? A. I think in all it was eight days.

Q. To Dutch Harbor?

A. Seattle to Dutch Harbor?

Q. Yes.

A. I think in all eight days.

Q. How long after leaving Dutch Harbor was it that you arrived at Nome?

A. Eight days, to the best of my recollection.

Q. That is your recollection? A. Yes, sir.

Q. Did the first officer inspect the quarters on the days when the master did not?

A. Not to my knowledge.

Q. You would not say that he did not?

A. I would say that I never seen him there inspecting the quarters.

Q. Did the purser ever inspect the quarters during the days the master did not?

A. No, sir, at no time.

Q. Did the steward ever inspect the quarters during the days that the master did not?

A. I seen the steward there about as many times as I seen the captain below; I never heard of his being below on any other occasion.

Q. You did not confine yourself entirely below during that voyage?

A. I stayed there part of the time and part of the time up on the main deck, when it was not too windy or too foggy.

Q. It was a pleasant voyage so far as the sea was concerned?

A. As far as the sea, yes; we had nice, smooth weather.

Q. You were up a good deal on the upper deck, on the promenade deck? A. Yes, sir.

Q. Back and forth?

A. Back and forth, but if he had been there I would have known of it.

Q. Would you have heard of it?

A. Had he been there I would have heard of it.

Q. You have no personal knowledge?

A. I never seen him there or heard of his being there.

Q. Now, you knew the steamship "Valencia" before you bought these tickets? A. I did.

Q. You had worked on her while she was being fitted up for a transport? A. I had.

Q. Did you know at that time the company that fitted her up—did you work for the owners or for the Government?

A. I worked for a man by the name of Turner, the port steward in San Francisco.

Q. The port steward of the quartermaster's department?

A. I do not know if he was employed by the Government. I think that he was very closely allied to the Pacific Coast Steamship Company, I believe his office was on their ground.

Q. Well, from whom did you receive your pay?

A. From him personally.

Q. By check or money? A. Cash.

Q. Do you know that the Pacific Steam Whaling Company owned the steamship "Valencia"?

A. Not of my own personal knowledge.

Q. I know; but did you have any general knowledge of the ownership of the vessel?

A. No, sir; I knew that before that the ship was running for them or they had advertised it as their ship.

Q. You knew that?

A. I knew it by their having advertised it as their ship.

Q. You knew that at San Francisco before you started out on this voyage? A. Yes, sir.

Q. You did not go to the office of the company on California street?

A. I did not know anything about it.

Q. At any time, did you?

A. No, sir, I never had any business in there. I went into this office on Market street of their agent, and got this ticket. I want to explain right here now, that when I got that ticket, I wanted to know if I was going to ride as a second-class passengers, and he says, "You will"? and I said if I was going to ride where the soldiers rode I would not ride there, because I would not go down in that hold; and he says, "You will not ride there," he says, "This is on the main deck"; he says: "Here is the hurricane deck above," and he says, "Right here is where you will be." And he showed me the pilot-house, and he says, "Right immediately forward of that on the main deck is where your quarters will be, and you will be served the same as the first-class passengers."

Q. Now, was this man selling any other tickets for any transportation company?

A. Not that I know of.

Q. Was it not a general broker's office?

A. I do not know, sir; it was advertised. He had his sign up and it was also in the paper, and he had these advertisements out, "The fine steamer 'Valencia,'" and I told the man I would not ride where these soldiers had to ride because I could have bought a ticket before that time on another steamer that I was acquainted with,

Q. Are you willing to submit to a physical examination by surgeons of the claimant in this case?

A. Yes, sir. I have no complaint other than I explained to you of my stomach, as I say, when I eat meat it gives me dysentery, something that I never had before, or something that never bothered me. I was in Alaska the year before and my health was good. Had I been in bad health, or even any indication of it, I should not have thought of going back to the same country again, or to a much worse place, as it was generally reckoned.

Q. You mean that Nome was much worse?

A. Supposed to be.

Q. You had been to Dawson?

A. No, not to Dawson.

Q. How far had you been?

A. I had been as far as White Horse Rapids.

Q. And from your experience at White Horse Rapids, you now consider Nome is a worse place, do you not?

A. No, I do not, with the exception of one thing, and that is the timber. I think so much of it that I am going back there again in the spring.

Q. As a gold seeker? A. Yes, sir.

Q. You went on this trip as a gold seeker, did you not? A. Yes, sir, I did.

Q. You found no gold?

A. Well, I was only out—

Q. I did not ask you how many times you were out; I asked you if you found any gold? A. No sir.

Q. And you came home without having acquired any placer mining claims? A. Yes, sir.

Q. Or any lease upon any placer mining claims?

A. I was physically incapacitated from doing so.

Q. What did you live on while at Nome?

A. I lived on the best food that I could buy. I had purchased and took with me the very best food.

Q. Canned goods, such as you described in your direct examination?

A. Yes, sir, the very best I could buy. I have some of the bills here that I bought.

Q. Did you ever complain to the captain that you were unable to get water to drink on that ship?

A. No, sir, I was not dependent on the general supply of water, as I told you.

Q. You never suffered for want of water?

A. I did until I went to a friend's cabin and he gave it to me, Mr. McKennon, he gave it to me in his stateroom and after that I was all right so far as the water was concerned.

Q. Did you know that some of the passengers in your department of the ship signed a letter of recommendation of the captain, which you have referred to?

A. I know of one. He was my roommate, and I know very well why he done so.

Q. Is your roommate here in Seattle?

A. Yes, sir. He is the only one that I do know of.

Redirect Examination.

Q. (Mr. CARROLL.) Can you state what you paid for the provisions you bought? A. In Nome?

Q. Yes, in Nome.

A. No, I kept no record at all. I do not know how much I did buy.

Q. Cannot you give an estimate?

A. Well, do you want what I bought at the restaurants or do you want what I bought at the stores? What I bought at the stores I could not give you exactly.

(Testimony of witness closed.)

October 13, 1900.

Continuation of proceedings pursuant to adjournment.

Parties present as at former hearing.

F. M. WHITE, produced as a witness in his own behalf, for further cross-examination, testifies as follows.

Q. (By Mr. GORHAM.) You say you paid fifty-two dollars freight charges on your freight?

A. Yes, sir.

Q. To the Pacific Steam Whaling Company?

A. Yes, sir.

Q. Did you get a shipping receipt for your freight?

A. I did, yes, sir.

Q. Where is that shipping receipt?

A. That is misplaced.

Q. When did you see it last?

A. While I was in Nome. After I got the rest of our stuff I thought there was no further use for it, and I paid no further attention to it and it was misplaced or lost.

Q. In whose hands was it at the time it was lost?

A. I don't remember.

Q. Was it in your hands or the hands of the company?

A. There was a whole crowd of us going down after

freight at the time and there was lots of us there landing freight.

Q. Didn't you deliver your receipt up to the agent of the company after you got your freight?

A. No, sir, I did not.

Q. You are positive of that? A. Yes, sir.

Q. Do you know the conditions of that shipping receipt?

A. Well, I don't know the exact conditions of it any more than it was to show that we had so much freight there to receive.

Q. It was a shipping receipt issued at San Francisco for the transportation of your freight from the port of San Francisco to the port at Nome afloat, was it not?

A. Yes, sir.

Mr. CARROLL.—Objected to as irrelevant, immaterial, and incompetent.

Q. And it specially provided that the company would not be responsible for the lighterage of the freight, didn't it?

Mr. CARROLL.—Objected to as irrelevant and immaterial.

A. No, sir.

Q. You are positive of that? A. Yes, sir.

Q. Are you as positive of that as any other matter or thing which you have testified to?

A. Yes, sir, I am. It was specially understood that our freight was to be delivered on the Cape Nome beach.

Q. That was in the receipt?

A. Yes, and it was agreed that it was there before I

left the boat. The first officer told me that our freight and all was on shore before we left the boat.

Q. I am not asking you now what the first officer told you; I am asking you what the contract was.

A. That was the contract, that it was to be delivered there safe on the beach.

Q. And that was so expressed in the receipt?

A. Yes.

Q. You stated that you were compelled to sleep out on the beach? A. Yes, sir.

Q. And that twice it rained? A. Yes.

Q. And you were exposed to the elements there?

A. Yes, sir.

Q. And you contracted a cold? A. Yes, sir.

Q. And since then you have had two hemorrhages?

A. Yes, sir what I supposed were hemorrhages; of course I never had anything before like that.

Q. A hemorrhage of the lungs?

A. I could not say whether it was a hemorrhage of the lungs.

Q. What do you call a hemorrhage?

A. I simply throwed up blood.

Q. You don't know whether it came from the lungs or the stomach?

A. I was coughing violently at the time.

Q. When was that?

A. That has been about three weeks ago or four weeks.

Q. Now that is since you arrived back at Seattle from Nome? A. Exactly.

Q. When did you arrive back here, on the "Senator"?

A. I came on the "San Pedro."

Q. Did you come first class or steerage.

A. I came first class.

Q. In the cabin? A. Yes, sir.

Q. When did you arrive here, do you recollect?

A. It was about the middle of August, I think, as near as I can recollect.

Q. You arrived here about the middle of August?

A. About the middle of August as near as I can judge.

Q. And about three weeks ago from now you had two hemorrhages?

A. I had a continual cold; I have never been shut of a cold that I contracted at Nome, and that has been constantly on my lungs, and my lungs have been sore and I had a violent cough at times. This cough sets in at night and sometimes I cough until twelve o'clock before it will let up.

Q. Did you have any medical treatment for the cold you contracted on the beach at Nome? A. I did.

Q. From whom? A. From Dr. Childs.

Q. What did he give you for it?

A. I don't know what it was, I was taking two or three different kinds of medicine.

Q. That was for the cold?

A. For the cold and dysentery and fever that I had.

Q. Did it seem to relieve you from the cold, this medicine? A. No, sir, it did not.

Q. Then did you seek any other medical treatment from any other physician? A. I did not.

Q. When you found that Dr. Childs' medicine did not relieve you?

A. Well, it didn't relieve me of the cold but it stopped my cough.

Q. It stopped the cough?

A. Yes, sir, but it did not relieve the heavy pressure there was on my lungs.

Q. You have never got rid of that cold that you contracted on the beach at Nome?

A. I have never got rid of it; no, sir. In the mornings when I get up it will be two or three hours at a time that I am hawking and coughing up phlegm.

Q. And that has been a regular thing every day since you left Nome?

A. Yes, sir.

Q. Both on your voyage from Nome and since?

A. Yes, sir.

Q. Every day?

A. Yes, sir.

Q. And you have taken no medical treatment here?

A. Yes, sir, ever since I landed.

Q. Of whom?

A. From Dr. Howard, in Everett.

Q. For the cold?

A. For my trouble, for my cough and the cold and the dysentery.

Q. When did you have the second hemorrhage?

A. Why, it was in a few days after the first.

Q. Did you go to the doctor after you had the first hemorrhage?

A. I went to the drug store and stated my case to him; I was not able to pay a doctor's bill and I thought probably I could get the prescription from the drug store

that would help me, and I was recommended Scott's Emulsion, and I have been taking that, but it has not improved me any yet to speak of, so I went to Dr. Howard.

Q. Was that before or after the second hemorrhage?

A. After.

Q. After the second hemorrhage? A. Yes, sir.

Q. And Doctor Howard has treated you since then?

A. Yes, sir.

Q. With any relief?

A. Well, Dr. Howard, I only went to him a few days ago.

Q. How many days ago?

A. Five or six days ago.

Q. Before your direct examination in this case?

A. No, sir.

Q. Since you have been on the stand?

A. Yes, sir.

Q. Did he prescribe for you? A. He did.

Q. Does there appear to be any relief from his treatment?

A. Well, I suppose my cough is better.

Q. The hemorrhage has not recurred?

A. No, sir, I have not had a hemorrhage.

Q. Now when you went to the captain and complained of lack of water—

A. No, sir, not to the captain—to the first officer.

Q. And he said, "We will have water," so you testified, and it didn't come?

A. It didn't come—just about half enough—if you happened to be there at the tanks you would get it.

Q. Did you again complain to the second officer?

A. No, sir, because he was so insulting that I didn't care to speak to the gentleman again.

Q. What did he say to you that was insulting?

A. He said we would be damned glad to get half enough before we came back from Nome.

Q. Anything else?

A. He also said it was good enough.

Q. Did you go to the captain and complain of the treatment of the first officer?

A. No, sir, because they was others there that had gone—

Q. You don't know except by hearsay, what the others did?

A. All I know is what they said.

Mr. GORHAM.—I move to strike out that part of the answer which is hearsay testimony.

A. (Continuing.) I started to go in the first cabin to get a drink, and the steward met me there and told me I had no business there, and I stated I wanted a drink of water, that I hadn't had a drink of water all day, and that I was sick that morning and was not able to get out for my drink; that was late in the day, about ten o'clock, and he said that there was no water for me if I was not there on time, and the tanks were dry and I could not get any water. There was plenty of water though for the dogs and horses on board.

Q. Did you and Mr. Birt have a dredger between you?

A. Yes, sir.

Q. Only one? A. Yes, sir.

Q. Did you buy it or did he buy it?

A. We both.

Q. What was it called?

A. It was called a clam-dredger.

Q. And where did you buy it? A. Sacramento.

Q. And what was its number or size?

A. I don't remember.

Q. Was it small or large for clam-dredger, or medium?

A. It weighed four or five tons; the dredger would weigh—that was just the scoop alone you understand, the scoop or shovel.

Q. Did it have any size, or was it called any size, or were there different sizes of those clam-dredgers?

A. There was no different sizes that I know of. I should judge it would hold about six or eight hundred pounds of dirt, sand.

Q. And it is your opinion that by reason of the delay in the delivery of this freight you lost the opportunity of your life? A. I lost a good opportunity.

Q. You never had made one hundred and twenty-five dollars a day before, did you?

A. Yes, sir—in my life?

Q. Yes. A. Yes, sir.

Q. For how long a period?

A. I made that for five or six months, anyway.

Q. One hundred and twenty-five dollars a day?

A. I used to make that on a bean ranch and a stock ranch.

Q. One hundred and twenty-five dollars a day?

A. Yes, sir; my crop averaged me about that for five or six months.

Q. That would be your net revenue, would it?

A. Yes, sir.

Q. After deducting the expenses of operating your ranch?

A. Exactly.

Q. For six months, that would be something like from fifteen to twenty thousand dollars a year, wouldn't it, one hundred dollars a day for six months?

A. I have made about fifteen thousand dollars there in a year.

Q. Off of your ranch which you referred to?

A. No, sir.

Q. Not the ranch that you referred to?

A. No, sir.

A. Off of that and rented land.

Q. What was the relative size or area of the rented land compared with the ranch you have?

A. I had three hundred acres rented.

Q. How much in the ranch?

A. One hundred and fifty-four acres.

Q. So that about two-thirds of your revenue was off the rented land and one-third off your ranch?

A. Yes, sir.

Q. What became of your ranch?

A. The dry years drove me out.

Q. Did you own it?

A. There is a heavy mortgage on it, about all it is worth.

Q. Does it still appear in your name?

A. I don't know whether it is or not; I guess I am foreclosed by this time. The party that holds the mortgage would not foreclose if the interest was paid.

Q. If it has not been foreclosed you hold the title?

A. Yes, sir. I have received nothing off the ranch for three years.

Q. What was the mortgage for?

A. A little over two thousand dollars.

Q. Who has the mortgage?

A. A fellow by the name of Captain Sutton.

Q. Where does he reside?

A. He resides in Ventura a part of the time and a part of the time in Santa Barbara, and a part of the time in 'Frisco.

Q. In the State of California?

A. Yes, sir. The ranch would not sell for two thousand dollars to-day on account of the dry years; there has been three successive dry years there, and property has gone down, clear down to nothing.

Q. Was there any stock on the ranch when you left it?

A. No, sir.

Q. In whose charge did you leave it?

A. It was left in charge of—I can't think of the party's name now—it was rented.

Q. Did you rent it?

A. (Continuing.) And he moved off and left it.

Q. How long did he rent it?

A. It was rented for a year, but he was only on the ranch a few months. It was so dry that he could not make anything and he had to move off to make a living.

Q. Who is in charge of it now?

A. I don't know.

Q. Is there anybody?

A. I don't know if there is anybody in charge of it now or not.

Q. And buildings on it, houses or barns?

A. There is a house and barn.

Q. Outhouses—the usual structures for a ranch of that kind? A. Yes, sir—a very poor affair, though.

Q. Do you know what its assessed valuation is for taxation in the county in which it lies?

A. About one hundred and fifty dollars.

Q. The whole ranch? A. Yes, sir.

Q. The acreage and improvements?

A. Yes, sir.

Q. One hundred and fifty dollars? A. Yes, sir.

Q. You are positive of that?

A. Yes, sir; they cut down taxes on account of the dry year.

Q. And if there should come a wet year it would be worth considerable, wouldn't it—you could make as much on it again in any other wet year as you did prior?

A. I could not.

Q. The rain is all that is necessary.

Mr. CARROLL.—Objected to as irrelevant and immaterial.

Q. What did you raise on that ranch?

A. Beans went down the last year and sold for one dollar ninety cents.

Q. Did you raise one hundred and sixty acres of beans?

A. I did not—I had some cultivated in beans and some in something else.

Mr. CARROLL.—Move to strike out as irrelevant, immaterial, and incompetent.

Q. Now, you say that your time was worth to you at least a hundred dollars a day, property which you could have got, which you could have operated?

A. Yes, sir.

Q. Now, keeping that particular property in view, do you know of anybody having operated it and receiving one hundred dollars a day net?

A. You can't find out what a man makes in that country. If you ask him a question he will tell you a lie.

Q. Then you don't know whether the person who operated this property which you had in view and which you could have got has made a hundred dollars a day net?

A. I only judge by outside appearances, because he stayed right with it, and if he didn't make it he would not have stayed by it as long as he did, that he must have made wages—a man with the money invested in the plant that he did would not have stayed with it unless he was making good money out of it.

Q. How long did he stay with the property to your knowledge?

A. He was operating it when I left.

Q. You were there about a month and a half?

A. Yes, sir.

Q. And he operated it from the time that you landed on the beach until you came away?

A. No, sir. He was not operating it then, but he operated it about two weeks after I landed.

Q. So he was really operating it about a month?

A. Yes, he was ready to move on it before he got it, about two weeks after I got there.

Q. Did he get there before you did? A. Yes, sir.

Q. And he had the property before you got there, I understand you to say.

A. He had the property—well, I was there two weeks before he got on to the property; I was there before he got the property—I was there in time to get the property if I had the dredger there and the stuff to have operated it with.

Q. Now, you attribute your present condition to the exposure you suffered on the beach by reason of the failure, or the delay in the delivery on the part of the steamship company of your freight?

A. Well, in going up there and that altogether; yes, sir.

Q. Did I ask you what your business was here now at Everett? A. I don't remember.

Q. What are you doing now?

A. Not much of anything—working at day's labor, whatever I can get to do.

Q. In what capacity, Mr. White?

A. I am working at plastering now.

Q. On dwelling-houses? A. Yes, sir.

Q. How long have you been engaged in working as a plasterer since you arrived from Nome?

A. I am simply a helper; I am not a plasterer.

Q. Well, how long have you been engaged as a helper to a plasterer? A. About two weeks.

Q. Off and on? A. Yes, sir.

Q. Now, what are your duties as a helper in plastering?
A. My duties are to prepare the plaster.

Q. And then what?

A. Prepare it and take it to them. I am only able to work a day or two at a time and have to lay off; I am broke down, and I can get the gentleman I am working with to corroborate my statement.

Q. I just wanted to inquire of you, that is all.

A. Yes.

Q. How long have you lived in California?

A. From 1887 until two years ago.

Q. In San Buena, Ventura county, which you referred to? A. Yes, sir.

Q. And they have had a drought there every three years?
A. Yes, sir.

Q. Prior to the three years how was it as to crops and drought?

Mr. CARROLL.—Objected to as irrelevant, immaterial, and incompetent.

Q. What year was it that you made the twenty thousand dollars in?

Mr. CARROLL.—Same objection.

A. As near as I can remember it was 1892.

Q. In the year 1893 was there a drought?

Mr. CARROLL.—I object to this examination as not proper cross-examination, and as irrelevant, immaterial, and incompetent.

A. I can't recall. There was several partial droughts.

Q. And in 1896?

A. There was three successive dry years.

Q. Now, it is not usual for there to be more than three successive years?

A. It is something that has never been known before.

Q. To have a drought for three successive years?

A. Yes, sir.

Q. I will ask you what the season has been this last year? A. It is dry.

Q. This present season?

A. It is dry—extremely so.

Q. With prospects unknown for this coming season?

A. Exactly.

Mr. GORHAM.—I think that is all the cross-examination, but I wish to state to Mr. White and Mr. Birt that I have engaged Dr. James Shannon as a physician to make an examination, and Mr. Carroll is acquainted with and knows the competency of these gentlemen, as I would not wish to have an examination made by an incompetent man, and he will be ready to make the examination at any time this morning.

Mr. BIRT.—Well, I want my physician there.

Mr. GORHAM.—You have that right and we will be glad to have him there.

(Testimony of witness closed. Whereupon counsel, together with Mr. Birt, the libelant, and F. M. White, the intervening libelant, repair to Dr. Shannon's office for the purpose of having a medical examination made.)

LIBELANTS' TESTIMONY IN BIRT vs. "VALENCIA."

Seattle, October 10, 1900.

Continuation of proceedings pursuant to adjournment.

Present: W. H. GORHAM, Esq., of Proctors for the
Claimant.

P. P. CARROLL, Esq., of Proctors for the Libel-
ants.

ISAAC R. BIRT, the libelant, being first duly sworn,
testified as follows:

Q. (Mr. CARROLL.) You are the libelant in this
case? A. I am.

Q. Your name is Isaac R. Birt? A. Yes, sir.

Q. How old are you?

A. Forty-seven years old on the 25th of last month.

Q. What is your business, Mr. Birt?

A. I have been a telegraph operator and newspaper
correspondent, and express agent for the last thirty years.

Q. Were you on the steamship "Valencia" on the
voyage from San Francisco to Nome between the 25th
day of May last and the 16th day of June?

A. I was.

Q. Did you buy a ticket for that voyage?

A. I did.

Q. What did you pay for it?

A. Seventy-five dollars, second class.

Q. Was there any conversation between you and the
agent or the person who sold you the ticket relative to

the treatment or accommodations that you would be given on that voyage? A. There was.

Q. State what it was.

Mr. GORHAM.—Where did you buy your ticket?

A. 30 California street, at the Pacific Steam Whaling Company's office.

Q. Who was present and of whom did you purchase it?

A. The agent or someone representing the company, I do not know his name.

Q. In the company's office? A. Yes, sir.

Q. (Mr. CARROLL.) Go ahead.

A. When I decided to go north last spring it was late, and all the first-class passenger tickets were sold on all the steamers. I decided then to take steerage passage, and supply myself with my own trunk and my own bedding, and to take with me a lunch basket to last me ten days. I was at Sacramento at the time, and I made an application to the Alaska Exploration Company for a third-class ticket on the steamer "Zealandia," and they informed me that they could sell me no class, as all the classes had been sold out. I then applied to the Pacific Steam Whaling Company for a third-class steerage ticket, and they informed me that they had only five second class left, one of which I could have by sending forty dollars as a guaranty that I would take it. I sent them the money along about the first of April, and on the 23d of May I went down and on the 24th I went and got my ticket and paid thirty-five dollars more. I told them that I had a lame hip and that I could not

stand too hard usage. The agent of the company, or the person representing the company, told me that I should have a comfortable berth, and that I would have just the same food that the cabin passengers had, only that I would have to eat after they did. That I would be put on the main deck. He showed me a diagram of the ship and the location where I would be put, which was satisfactory to me. I then abandoned my idea of taking a cot and bedding and my provisions, as I was led to believe that I would get good accommodations and good enough food.

Q. What class ticket did you buy?

A. I bought a second-class ticket, the only class that I could get. They claimed they sold no steerage tickets and that they only had two classes, first and second. When I went on board the ship after shipping my freight, I went on board the ship just before she started, and after I got out of the Golden Gate I was taken below by the quartermaster in the steerage or in the hold—they had no steerage they claimed—and I was taken and put down in the hold below the main deck. There was the hurricane deck and the main deck, on which the second cabin is located, and the hold where the freight was put in, and I was put in section B of the hold of the ship, berth 50. When I got to my berth two other men claimed it, a big Swede and an Irishman. They both had tickets for section B, berth 50. I put my things in the berth and they took them out. First I protested to the quartermaster against going down there, but he said that was all they had what my ticket called for, and so I

put my things in there and the Swede took them out. I was the weaker man of the three and I was compelled to submit to it. I went on a still hunt for the purser, but he was drunk and could not be found. I made three trips on deck that day and failed to find him, and I was forced to put my blankets on the table on which we ate and slept there that night, although I had paid for a berth. The next day I found the purser and he sent for the Swede, and I told him what the representations were that had been made me at the company's office, and showed him my lame hip and told him I could not take the worst of it all the way through, and he took the Swede out—the other fellow had given up the berth—and he put me in berth 50. When I found him that morning he was shaking like a man who had the jimjams.

Q. Who was?

A. The purser. I could not find him the night before.

Q. Now, state the kind of victuals that were furnished you and that you were compelled to use during that voyage.

A. Well, on the first off the food that was furnished us would have been good enough if it had been cooked. From San Francisco to Seattle the food would have been good if it had been properly cooked, but the food was cooked in a steamer and it was just about half cooked. The potatoes you could not stick a fork in them over a quarter of an inch. The beans, some of them I could mash with a fork on a tin plate, they were so hard. The roast was just about half cooked, the oatmeal came to us in lumps, great lumps of raw meal. The

bread on starting out was good, the butter was good, and the meat, if it had been cooked, it was good enough for the first three days possibly, but it was raw.

Q. How was it after the first three days?

A. On starting out the men, or nearly all of the men in my section, became more or less sick, and they vomited in the cans and in the boxes used for cuspidors, and that vomit was allowed to lay there and decompose until after we came in this side of Cape Flattery. On the third day the passengers, or a number of them, thirty or forty, came together and asked me to draw up a petition to the captain setting forth the filthy condition of the ship, and the unbearable stench that we had to live in and the half cooked food that we had to eat. At the request of a large number I sat down and drew up this statement, setting forth that we only had two men in the steerage to wait on four hundred and forty men. That our food was only half cooked and only half served, and that the vomit that had been deposited in the boxes the afternoon that we had left San Francisco was still in the boxes and decomposing and creating a stench which was almost unbearable. There was only two men down there to wait on us. I drew this up and it was signed by two hundred and thirty-five men, and taken to the captain by an old gentleman. I went with him. I did not have any hand in the delivering of it, but I stood outside and heard what the captain said. He assured him that he would see that our food was properly cooked and that the quarters would be cleaned up. They did empty the vomit out of the boxes and they did sprinkle sawdust

on the floor and swept just the space where the men would walk, but underneath us it was left dirty at all times.

Q. Underneath what?

A. Underneath the bunks. We arrived in Seattle on the evening of the 29th of May, I think it was the 29th of May. On the evening of the 31st of May we were all put ashore, ostensibly for the purpose of counting us, every passenger except one old lady was driven ashore at the dock down here. Well, we went ashore, and while we were ashore the employees of the ship stole our goods. I lost a valise and a man from Stockton lost his valise.

Mr. GORHAM.—I object to the witness testifying what other people lost unless they are suing here.

Q. Just state what you lost yourself.

A. I lost my valise.

Q. What did that valise contain?

A. It contained ten pounds of quicksilver that cost me \$7.50; two blue shirts, navy-blue shirts that cost me \$6.50; \$3.25 apiece; two suits of heavy fleece lined underwear that cost me \$8; four white shirts that cost me \$6.00; six linen collars that cost me \$1.50; two neckties that cost me \$1.25; six pairs of socks that cost me \$3; six silk handkerchiefs, \$3; two plugs of tobacco, \$1; some writing tablets and envelopes and stamps, I guess, cost me about \$1; and the valise \$5. Somewheres near \$50 worth of property, and there were some little things in there that I cannot now remember.

Q. What effort, if any, was made to find that valise?

A. I reported the fact to the first mate and these other people reported their losses to the captain. The captain and the mate came down and looked around and said, "Well, it must be on board of the ship." Well, I knew, and it ended at that.

Q. Was it ever restored to you?

A. No—hold on, there is a mistake; there was \$5.25 worth of medicine that I forgot to put in.

Q. Now, what was your treatment as to food and accommodations from Seattle to Cape Nome?

A. Brutal and inhuman.

Q. Well, state what the facts were.

A. When we left Seattle, although they had filled up the tanks with water the water was shut off from us; we were allowed water twice a day at ten and at five, and the rest of the time if you wanted anything to drink you were forced to buy beer. They brought up twenty or thirty barrels of beer and opened up a saloon with it, and locked up the water tanks in order to blackmail us into buying beer. The food, instead of being made better as the captain promised—the butter, milk and sugar was cut off. The bread, which was fresh when we left San Francisco, was withheld from us until it got three days old, as the steward said they could not feed us with fresh bread, that we would eat to much; and from Seattle to Cape Nome we had no bread younger than three days old. It was all stale. They put us on spoiled meat, rotten and stunk and not fit to eat. A hog would not eat it; the fact is it nearly killed a big dog; and to this, to make our life more of a burden, they tied one big dog

on this side of the vessel down in the steerage or second class and three smaller dogs over here, and they fed these dogs the same fare that they gave the second cabin. At the end of about a week the big dog was taken sick and one day he broke loose at both ends; of all the dogs I have ever seen, I have never seen one let go so much matter in my life, and the stench was simply terrible. The captain was on the bridge right above us and he got a whiff of it and came down from there and came into the steerage and he commenced to curse and swear, and he cursed there until the atmosphere was blue; and when he got pretty near run down I told him not to sniff light, there was enough to go all around, and he broke loose again, and how he did swear! They took the dog forward and gave him cabin diet and I guess he recovered; I never seen him after that. But the meat was rotten, the mush was sour, the potatoes and beans and rice were only half cooked—that part of the food that was good and that we could have eat was raw.

Q. Now, state what you know, or what you saw, in regard to the cleanliness and service of your victuals and its relation to where the animals and horses were carried?

Mr. GORHAM.—I object to your leading the witness.

A. The cooking for the second-class passengers was done right aft of forty-six horses. The horses were on a little higher plane than the place where the cooks stood. The natural result was that the urine and the manure would wash down on to the cook's part of the vessel. When the meals were cooked the men would come up with big

dish-pans and set them down around over the deck, and they would be filled up with beans and Mulligan and rice and potatoes and meat, and then one pan would be set on top of the other—and mind you they had been setting in this urine and manure and around the different places there, all set around, and the manure and urine would adhere to the bottoms and they would pile one on the top of the other and they would carry them down for human beings to eat. I have seen them not once, but twenty times.

Q. Now, state whether or not you had a sufficient supply of water at all times during that voyage.

A. I did not after leaving Seattle. We had water only twice a day—I believe only about ten gallons for six hundred men. The two tanks—I think they were five gallon tanks—were filled up and when that was gone we got no more. Being a cripple and after the first week that I was out I was taken with the dysentery and fever, and being weak I was unable to get to the tank with the able-bodied men, and as a result I would get no water. I called on the steward and told him how I was suffering and sometimes he would give me a drink, and other times he would tell me to go forward, that I did not belong here.

Q. State what amount, if any, of freight and baggage you had on board.

A. I paid fifty-two dollars freight, and thirty cents extra baggage. I had ten pounds of extra baggage and they charged me thirty cents for it.

Q. What did your freight consist of?

A. My freight consisted of—my part of it an army cot and one-half of a clamshell dredger, an iron dredger with a derrick and framework, and block and tackle and boom, and my mattress and four hundred pounds of provisions, tent and stove and tent poles. I could not hardly reckon everything that I did have.

Q. When did you arrive at Cape Nome?

A. We arrived there at 9:15 Sunday night, June 17th.

Q. How long did the vessel stay at Cape Nome after she landed her passengers?

A. About three or four days.

Q. Did you get your freight and baggage at that time?

A. No, sir, I just want to explain—

Q. How many days after that was it that you received your freight and baggage?

A. I think it was the morning of the eleventh day.

Q. On the eleventh day after you arrived there?

A. Yes, sir, after we arrived there.

Q. Do you know where the vessel went to after she left Nome?

A. Only what the steward told me.

Q. What did the steward tell you?

A. He told me that they were going to Golofnin Bay and then to York. They headed east when they left Cape Nome the first time and were gone, I think, two days; and they came back and stayed a day or it might be a little bit longer, and they headed west and they were gone, I think, three days, maybe a little longer; I would not be sure. I was told that they were going to Golofnin Bay and then up to Cape York. They went to both of these places, as I learned afterwards.

Q. When did she return again?

A. She returned, I think, about the 27th of June was the last time.

Q. Now, when did you get your freight?

A. We got our freight on the 29th of June.

Q. Your baggage at the same time?

A. At the same time. Some of our lumber, that is, the framework of our derrick, came off before that time when they came back from Golofnin Bay.

Q. The first return?

A. Yes, sir, but our baggage and freight did not come off until the last lighter on the morning of the 29th of June.

Q. Did you talk with any of the officers of the vessel in regard to your freight and baggage?

A. Well, not of the vessel; I went to the agent who had charge of the warehouse there, and stated to him my condition; that I was compelled to sleep out there on the wet sand without my tent, stove or cot, and asked if he could not get that, and he said that I would get that when it was unloaded and not before.

Q. How many days did you sleep out, as you have stated, before you received your freight and baggage?

A. I camped out ten days and nights without the use of my cot or tent or stove or mattress. I was forced to sleep on the wet sand, without proper bedding and without any shelter whatever except the canopy of heaven above me, and my blankets.

Q. What did you do during that time for provisions?

A. We offered a landing party—

Mr. GORHAM.—I object as irrelevant, incompetent and immaterial.

A. (Continuing.) We had in the party two other persons and one of them had a ham and we had some coffee and some sea biscuits, that our Mr. White had in his grip, and we lived on that ham and sea biscuit and bread that we bought at four bits a loaf during ten days. The last night that we were without our provisions, as just an act of Providence, a school of small sardines came close in to shore and the breakers threw them ashore and we ran out—I did not but the others did—ran out and picked them up and cooked them for supper and breakfast. That was all that we had. We had neither bread nor anything else but these fish.

Q. What money, if any, did you expend during the time that you were waiting for your freight and provisions, for supplies and necessaries?

A. Well I was almost destitute of money after they had charged me this exorbitant freight rate. I only had one dollar and seventy-five cents left. After they had stolen my medicine from me here in Seattle I was compelled to spend that at Dutch Harbor for dysentery medicine, and it left me at Cape Nome without a cent. The other men bought all they could afford to buy. All provisions were very high; meals were worth all prices and bread was fifty cents a loaf and other things in proportion. They bought all they could afford to. My partner had a little money and he bought bread; the other men bought a can of butter; but as far as I was concerned, I was without money. I would have had to

starve if it had not been for the aid of these other people who landed with me.

Q. Do you know how much they expended for your support?

A. Well, I expect it cost us probably twenty dollars apiece.

Q. What means, if any, have you now?

A. None whatever. I am here a cripple and practically destitute.

Q. What effect, if any, upon your health generally did your treatment on board of this vessel have?

Mr. GORHAM.—I object as incompetent.

A. Well, sir, when I went on board of this vessel I weighed two hundred and fifteen pounds. I had not a physical defect except this fractured hip which occurred two years ago the 27th of this month at Dawson, and I had almost recovered from it; I could walk with a cane anywhere, and could work all day, and put in ten hours walking and soliciting job printing and advertising in Sacramento. When I got taken bad at Nome I was sick; I was feverish and had the dysentery, or I would have had my eight to fifteen dollars per day. When I was compelled to sleep on the sand I caught a most terrific cold, and my hip swelled up and the excruciating pain about dislocated it. My foot, which went forward perfectly straight when I started on the voyage, deflects to the left at an angle of forty-five degrees. I have got a partial dislocation of the hip and I have suffered mental agony that is indescribable.

Q. What use were you going to make of this machinery that you spoke of?

A. This clamshell dredger was made with a view of working under the water, at the bottom of a creek where other people could not work. It was a most perfect little machine and if we could have used it it was destined to have earned us a lot of money.

Q. Well, could you have used it if you had received it at the time that the vessel first landed at Cape Nome?

A. Had I not been fed on this rotten beef and sour mash and improperly cooked food and housed in a dense stench for a period of twenty-two days, and had I been landed with my dredger and tent and stove and cot to keep me out of the dampness—in other words, had I been landed at Cape Nome as an able-bodied man as I was when I left San Francisco, I could have earned from one to three hundred dollars a day I think.

Q. With this machine?

A. With this machine. It was made to work under the water where other people could not work.

Q. Now, what opportunities did you have to use your machine, provided it was landed when you were landed?

Mr. GORHAM.—I object as incompetent, irrelevant, and immaterial and not a proper measure of damages.

A. Well, up the creeks we could have got lays had we been able to have got our freight at the time we landed or within two or three days afterwards—a reasonable time; but by the time we got our machine, both myself and my partner were laid up, and while he could hobble around some and did make several trips up the

creeks, we were unable to work the machine; and besides that, five pieces of the frameworks and the castings that go on the corner was lost; and we were unable then to put it in operation, as we could not get the necessary parts.

Q. Did you report the loss of this machinery to any officer of the vessel, or agent of the company?

A. The agent of the company—the officer of the vessel was gone, they were three or four miles from shore.

Q. What was said in answer to your report of the loss?

Mr. GORHAM.—I object as incompetent and immaterial.

A. I did not make the report; Mr. White made it.

Q. Did you ever recover these pieces of machinery?

A. I did not. I grew steadily worse and walked out of the locality and left everything that I had there.

Q. Could you use this machinery without these pieces? A. No, sir.

Q. Could you get these pieces replaced at Nome?

A. No, there is no foundry there to get any casting done. I simply walked away and left everything as it stood there.

Q. What use, if any or at all, was this machinery after the loss of the pieces that you have mentioned?

A. None whatever. I left everything on the beach there; it was a total loss to me. I have a little statement of my treatment that I wish to make, on my arrival at the anchorage—will I be permitted to make it?

Q. Go on, sir.

A. We had supper at 5 P. M. on Saturday night. Monday morning—or Sunday night, rather—the hatches of both steerage, B and C, was torn up and the freight and baggage was being taken out. Monday morning no breakfast was served. At eleven o'clock Monday I went to the steward and told him that unless he gave me something to eat I would be forced to go to the captain, and he went into the kitchen and brought me out two biscuits and a piece of cold steak and a cup of coffee and set it on the ice chest and says, "You pay a dollar for that when you get over to Nome." I told him that I had already paid forty dollars for it, and he wanted to know how that was, that he had never seen any of my money. I says, "You are not the man to see my money; I paid my money at the office; I paid seventy-five dollars to come here and thirty-five dollars would have been a big price, so I consider this breakfast cost me forty dollars." Of course he seen what I was driving at, and he slunk away like the cur he is. We were then kept on the vessel all that day and until 9:40 at night. Along about seven o'clock in the evening down in the steerage C they had some beans and biscuits that the first-class passengers had not eaten for their supper. They took them down there and gave them to the second-class passengers. I heard about it and I attempted to go down but the chains or stanchions—the chain which had protected—the handrailing had been taken up and I did not dare—the vessel was rolling considerably and I did not dare to attempt to go down. I went to the first officer and stated that they were getting something

to eat down there and that I was hungry, and asked if he would not put up these stanchions and chains so that I could go down. He said, "My men are at their supper and you have no more privileges on this ship than any other man." Well, I knew that, not as much as many of them. I got down on my hands and knees and attempted to crawl down, but the lurching of the ship made it dangerous because there was an opening down into the third deck below, and if I went over these steps I was liable to go down twenty feet, and I did not dare to risk it; I was forced to stay on board there until 9:40 P. M. and then got ashore, and by the time we got to our camping ground it was 11:40; and we laid down our beds and went to bed. I had this little handout there Sunday night at five o'clock, and until seven o'clock Tuesday morning I went without anything to eat. It was not my fault that I did not get ashore; I tried to get off on the first lighter, and I tried to get off on the second lighter. The others were so anxious to get off that they crowded me back and I could not get off and I was forced to starve.

Cross-Examination.

Q. (Mr. GORHAM.) At the time that you paid fifty-two dollars freight for this shipment you have referred to, did you get a shipping receipt or a bill of lading?

A. I think I did; yes sir.

Q. Where is that?

A. It was surrendered at Nome when I got my freight.

Q. To whom?

A. To the agent that I got my freight of.

Q. You got the freight of the agent, did you?

A. Yes, sir.

Q. Did Mr. White have a bill of lading?

A. Yes, sir.

Q. Was your freight one shipment with White's or two shipments?

A. Part of it one and part of it two; he had some private freight.

Q. And you had some private freight?

A. Yes, sir.

Q. And then you had some freight in common?

A. Yes, sir.

Q. Now, was the freight in common in your bill of lading or in White's bill of lading, or was it mixed?

A. I believe it was mixed.

Q. And he surrendered his bill of lading to the agent, the same as you did?

A. I did not surrender mine. He took the checks and bills of lading and went down—he and other parties that we got to help us, but he was not able to do much.

Q. What checks?

A. The checks for our baggage. Our baggage and freight came together. I think the officers of the steamship assured us that our baggage had gone off first, and our provisions were in our baggage. We shipped that as baggage and instead of putting it off, as they promised, they did not do that and they carried it for ten days, nearly eleven days, and kept us without anything to eat; that is, without our provisions, which we had plenty of.

Q. Were your provisions checked?

A. They were checked. We were allowed two hundred and fifty pounds apiece, of which five hundred and ten—

Q. Five hundred and ten pounds of provisions?

A. Five hundred and ten pounds of provisions and cooking utensils, which was a stove and dishes and tin-ware, and so forth. We checked our provisions with a view of getting them the first thing.

Q. That was exclusive of your freight?

A. Yes, sir, that was exclusive of our freight.

Q. And the cots and mattresses and dredgers, and so forth? A. And clothing.

Q. What were the conditions of that bill of lading, do you know? A. I do not remember.

Q. What were the conditions relative to the delivery at the port of destination?

A. I believe that they agreed to help us deliver them, but they did not even do that.

Q. You mean as a matter of fact they did not help you deliver them?

A. No, sir, they did not help us, they did not do anything for us.

Q. They agreed to help you deliver them?

A. They went back on that.

Q. Then, under the contract of the shipping receipt they were not obliged to deliver them?

A. Of course they took our money to deliver them at Cape Nome?

Q. Was that the contract and did you read the shipping receipt?

A. That was the paid contract, I would not pay them to deliver it at Dutch Harbor.

Q. Then, how do you know they agreed to help you deliver them?

A. There was one clause on it which said lighters would be furnished and that the Pacific Steam Whaling Company would help deliver. I read that and I did not read any more because I paid them to deliver them at Cape Nome and I intended to make them do that. They receipted for them to be delivered at Cape Nome. It was understood and implied that no matter what they printed on their bill of lading.

Q. You say that the water tanks contained ten gallons of water and that was all the supply of water?

A. About five gallons in each tank, one at the forward end of the vessel and one at the aft.

Q. And that was all the water furnished six hundred men each day?

A. Twice each day—ten in the morning and five in the evening.

Q. That would be twenty gallons a day for six hundred men?

A. Yes, sir; but an unlimited quantity of beer you could get at the bar if you wanted to pay a dollar a bottle.

Q. Now, the food from Seattle to Nome, you say, consisted of spoiled meat?

A. Spoiled meat, rotten potatoes, sour mush, half-cooked beans and half-cooked rice; stale bread and tea and coffee made in the same can. They used simply to

take out the grounds of the coffee from the morning and put tea in, and you could not tell which was which.

Q. And this food was served in pans?

A. The food was served us, put on the table in pans.

Q. Now these pans had been stood on the deck where this offal was running down?

A. Yes, sir, where the urine and the horse manure had run down there, and the bottoms of them was caked with that.

Q. Every day? A. Yes, sir.

Q. Every meal time?

A. Yes, sir—Well, I would not say that, because at breakfast time they washed the decks before breakfast, and it would not get down there in time for our breakfast.

Q. But the other two meals?

A. The other two meals we had it every time.

Q. For the noon and evening meal that was the regular thing?

A. That was the regular thing. We had horse manure and horse urine mixed with our Mulligan stew and rice and potatoes and beans, or whatever it was, and we had lots of it too.

Q. You say that a petition was signed, addressed to the captain? A. Yes, sir.

Q. And that was presented to the captain?

A. Yes, sir.

Q. And he assured the persons present that the cause of complaint would be rectified?

A. Immediately.

Q. Did you ever make any complaint to the captain?

A. I went to the captain, too, yes; this side of Dutch Harbor, and told him I was suffering with a fever; that I had dysentery and that I could not eat the food that was served, and that I was suffering for water, which I could not get any way; and he replied that he had all that he could do to navigate the ship, and that was the duty of the steward to take care of me, and that is all that he done.

Q. That was all there was about it?

A. That was all there was about it.

Q. Did he have them instruct the steward to see that your comfort was looked after?

A. *That* to my knowledge.

Q. Not to your knowledge?

A. And if he did the steward never done anything but make it still worse; it grew steadily worse from the time we left Seattle until we dropped anchor at Nome, and then—

Q. The bread was three days old? A. Yes, sir.

Q. They kept making bread? A. All the time.

Q. But they had enough on hand so that you never got fresh bread?

A. If they ran out of stale bread they would get sea biscuits with worms in for us.

Q. How many times did they do that?

A. Four or five times.

Q. Four or five different meals?

A. Four or five different times they would put us on sea biscuits with worms in them. They were very good

when you got the worms out, but it was so dark you would sometimes have to eat the worms and all.

Q. How many vessels were in port at the time you arrived in Nome? A. Eighteen.

Q. How long had these vessels been there, if you know?

A. When I arrived there they had been there about fifteen minutes that I know of.

Q. I am now seeking to find out whether or not the passengers had been discharged from these vessels that had arrived there already.

A. Some were nearly unloaded of freight and passengers, and some were unloading their passengers and freight at the time that we arrived there; others were empty and taking a load.

Q. Now, about how many people were there at Nome at the time you landed on the beach?

A. I did not count them.

Q. I said about how many?

A. Well, I should judge about twenty thousand, maybe.

Q. Twenty thousand people on the 17th or 18th of June? A. Yes, sir.

Q. Scattered up and down there?

A. It is hard to say how many there were, but judging from the looks where I landed and what I seen up and down there as far as I could see, there was probably twenty thousand people.

Q. Did you see the Alaska Commercial Company's general store there? A. No, sir.

Q. Do you know that they had one there?

A. I do.

Q. Did you see the N. A. T. Company's store there?

A. No, sir.

Q. Did you ever know of their having their freight taken ashore there? A. Yes, sir.

Q. At the time you landed? A. Yes, sir.

Q. The Alaska Exploration Company, did they have a store there? A. I do not know.

Q. Did you ever hear of it being there?

A. I would not like to answer that in the affirmative, because I do not remember.

Q. How many stores were there, general supply stores, in operation at Nome?

A. Oh, there were supply stores there for a mile off.

Q. General supplies? A. All kinds of supplies.

Q. So that the town had become suddenly very large?

A. Yes, sir, very long and narrow.

Q. Was it a commercial town where people could buy and sell provisions such as miners' outfits?

A. Yes, sir, you could buy any kind of grub there if you had the money, buy anything. I was unfortunate enough not to have any money.

Q. I will ask you—there were two others in your party besides yourself you said?

A. No; there was White and I together, but there were two others landed with us from a landing barge. There were three others landed with us, but one branched off for himself, and the other two were with us, just a landing party.

Q. And you camped on the beach the first ten days?

A. Yes, sir; that is all.

Q. In that party of four you now speak of there was ham and coffee and sea biscuits and bread that you got?

A. Yes, sir.

Q. Now, you state that you did not have any money at all when you landed at Nome?

A. When I landed at Nome, when I went into anchorage I had just one cent and I threw it overboard.

Q. And this party of four during that ten days expended about twenty dollars per head?

A. I guess about eighty dollars or ninety dollars; probably more than that; I would not want to say.

Q. Then, the allegation in your libel that you were compelled to procure provisions at great inconvenience and expense amounting to one hundred dollars is not correct?

A. Well, that is an allegation that was made without my knowledge.

Q. Did you read this libel before you swore to it?

A. Yes, sir.

Q. Then, you had knowledge of that allegation at the time you verified it?

A. I did not remember that statement; it is in there, of course; it was there, but they would not recover anything but the damages that I sustained.

Q. I am not asking you about the damages. This allegation that you were compelled to spend over one hundred dollars, that is in here, is it?

A. That might be, yes; I would not like to say how

much money they expended on me, as to the amount, I would not want to say that because if it was only twenty dollars it would be very light, taking into consideration the enormous prices they charged when we first went to Nome. When we were up there we could get things at any price. Get three loaves of bread for twenty-five cents as against one loaf for fifty cents. Butter was worth five dollars a can.

Q. You say that at the time you started on this voyage you had some trouble with your hip.

A. My hip had been broken October 27, 1898, in Dawson, but it was almost well.

Q. How had it been broken?

A. The Klondike bridge fell down with me and threw me down on the ice fifteen feet.

Q. Now, were any bones broken at that time?

A. Yes, the femur was broken.

Q. Were you placed in a hospital?

A. Yes, sir.

Q. How long did you remain in the hospital?

A. From the 27th of October, 1898, to the first day of June, 1899.

Q. Pretty near nine months?

A. Yes, sir, close on to nine months.

Q. Under treatment?

A. Of a physician and surgeon.

Q. During all that time? A. Yes, sir.

Q. What hospital was that?

A. The Good Samaritan.

Q. At Dawson? A. Yes, sir.

Q. How did you come to leave the hospital in June, 1899? A. They turned me out.

Q. You were discharged from the hospital?

A. Yes, sir.

Q. What was the name of the physician that attended you? A. Doctor Fulton.

Q. Do you remember his initials? A. George H.

Q. Was he a resident at that time of Dawson?

A. Like all the rest of us, temporarily.

Q. Do you know where he hailed from?

A. No, but I know where he is now.

Q. Where is he now?

A. Marsden, Massachusetts.

Q. Now, prior to your going to Dawson and prior to your receiving this injury to your hip, you were a newspaper correspondent?

A. And telegraph operator.

Q. And telegraph operator. How long had you followed that profession?

A. Over a quarter of a century.

Q. And after you were discharged from the hospital what did you do for a living?

A. I came home.

Q. What did you do for a living?

A. I came home after I was discharged from the hospital, and was soliciting for job printing and advertising down in Sacramento, California.

Q. For how long?

A. I think I started in at that last December or January, and followed it up to the time that we left for Cape Nome.

Q. What did you do between June, 1899, and January, when you started your occupation as a solicitor?

A. A much-needed rest.

Q. Whereabouts?

A. From Dawson to Sacramento.

Q. How long did it take you to go from Dawson to Sacramento? A. About a month.

Q. What did you do the balance of the time?

A. Rested.

Q. What did you do for a living? A. Nothing.

Q. Who supported you? A. My boy.

Q. At the time that you were in the hospital at Dawson did you take anaesthetics?

A. How do you mean?

Q. Did you take any medicine in the shape of opium or opiates for relieving pain, to your knowledge?

A. No.

Q. Did you take medicine?

A. I did not take medicine because I did not need it; I was well. When they set my hip they etherized me.

Q. That was simply for the purpose of relieving the dislocation?

A. Yes, sir. After that I did not take medicine; I did not need any; I was healthy.

Q. And after they discharged you from the hospital?

A. I took no medicine; I was well, perfectly well. I have been all my life a strong, healthy man; barring this break, five dollars will pay my doctor's bills since I was nine years of age.

Q. What other complications, if any, arose from this accident at Dawson other than the fracture of the hip?

A. Nothing at all.

Q. Were you in good physical condition at the time you started on this voyage from San Francisco?

A. I was in fine condition, never felt better in my life.

Q. Had your wound entirely healed?

A. It was healed so that I could walk anywhere with one cane; I could walk all day long with one cane.

Q. Why did you have to use a cane?

A. There was a weakness there.

Q. Then, you were not entirely recovered from that accident?

A. It had healed but there was a weakness that will probably be there for sometime yet.

Q. For how long, do you imagine?

A. Now, after I have got this terrible dose up here at Cape Nome the chances are that it will be two or three years before I will be able to walk with one cane. My hip is now partially dislocated, which formerly it was not.

Q. Now, how did your hip become dislocated at Nome?

A. By excessive pain. That is frequently the case where you have excessive pain. I know of a young lady—

Q. I do not care for other cases.

A. Well, that is frequently the case where you have excessive pain; it will draw the socket out and dislocate the hip?

Q. What was the cause of that pain?

A. By being compelled to sleep on the ground, owing to your client holding my cot and tent and stove, and being compelled to sleep on the damp sand at Nome, I contracted a frightful cold, which gave me rheumatism in this hip and in my right one, and brought on this terrible pain which I spoke of, and which has partially dislocated this hip. My leg, as you see there, is deflected—

Q. The exposure to the elements produced the pain, the rheumatism and pain in the seat of the old wound as well as in your shoulder? A. Yes, sir, exactly.

Q. And that brought about another dislocation of the hip?

A. Not an entire dislocation. The former was simply a fracture of the neck of the femur, and that is now partially a dislocation. And the hip falls over, like that. (Showing.)

Q. You are still suffering from that dislocation?

A. I am still suffering from that dislocation, and will for time to come.

Q. Well, you are suffering from this pain by reason of the exposure at Nome. Did you consult any physician?

A. Yes, sir. I had Dr. Childs. My hip swelled up until it was as big almost as two hips.

Q. Dr. Childs, who testified for Mr. Grismore in the other case the other day? A. Yes, sir.

Q. Did he treat you? A. Yes, sir.

Q. Was his treatment successful?

A. Well now, he helped me.

Q. Now, did you submit yourself to treatment under any other physician or surgeon?

A. I went to General Randall and stated the condition of my case.

Q. When?

A. Along about the 20th of July; he sent me to Major Eggert, the medical director of the department of Alaska, to be examined. I stated to the general that I was without funds, and that I was physically unable to do any work, and that I was bound to suffer unless there was something done. He sent me to Major Eggert, as I stated, and he made a physical examination of me and reported to the general that it was imperatively necessary that I should be put on board a transport at once, which was lying at anchor off the coast. I was put on board on Sunday morning prior to the ship's sailing the following Friday. My condition was such as to justify the Major recommending my being removed from the damp sand.

Q. And where was this transport bound?

A. She was bound for Seattle.

Q. Did you come to Seattle on her? A. I did.

Q. By reason of Major Eggert's efforts?

A. Yes, sir.

Q. Did Major Eggert prescribe any treatment?

A. He did not.

Q. Did any other physician or surgeon subsequently, subsequent to your leaving Nome prescribe any treatment?

A. No, sir, I had no money to hire any.

Q. You have not hired any since then?

A. I went to Dr. Hoey down there when the pain got so bad I went to him and stated my case and he gave me a prescription.

Q. Dr. Hoey or Dr. Howe? A. I do not know.

Q. In this city?

A. Yes, sir, he is in the Sullivan Block, I think. He gave me something that relieved the pain in my bowels temporarily, but it comes back on me once in a while. It was almost unbearable at the time I went to him.

Q. And you have had no treatment for the dislocation of your hip? A. Yes, sir.

Q. By whom?

A. I am taking treatment of Dr. Potter, in the osteopathic institute down here, twice a week.

Q. What physician or surgeon in that institute?

A. Well, sometimes Dr. Potter and sometimes another doctor that I do not know, one of the students that they have there that is just about ready to graduate, Dr. Cowell. He will be a doctor in a very few days. Sometimes Dr. Potter helped him treat me and sometimes another doctor whose name I have never learned. I was not introduced to him.

Q. How do you know that he was a doctor?

A. How do I know that you are a lawyer?

Q. That is not an answer to my question. I ask you how you know that this person who is attending you is a doctor?

A. Because they called him doctor there, Dr. Potter; the other doctors called him Doctor, that is all I know.

Q. That is all I wanted to know; is it not your opinion that had you not been exposed to the elements at Nome you would not have contracted the rheumatism and the pain which produced the dislocation of your hip?

A. I am positive that had I been given my tent and my stove and my cot to keep me off of the ground, that I would have been as healthy a man at Nome as I ever was, and I would never have contracted this pain and dislocation of my hip.

Q. Then, you mean that this dislocation of the hip is due to the exposure to the elements at Nome?

A. Caused by the neglect of the people on the "Valencia."

Q. I did not ask you that question. The direct cause was the exposure to the elements?

A. The exposure to the elements for want of my paraphernalia to protect me from the elements.

Q. That was the only cause?

A. That was the only cause, no other cause. I have always been a healthy man and was a healthy man in Dawson.

Q. What are you doing now?

A. I am soliciting job printing when I am able to. I can only work from two to four hours a day, and barely make a living, and am unable to raise money enough to get home.

Q. Are you willing to submit yourself to a physical examination by competent surgeons on behalf of the claimant?

A. I am. And I am going to ask that a commission issue for the testimony of Doctor Childs,

Q. I would like to ask you if at the time you were approaching Nome whether or not you were not considering whether or not you would not proceed on the vessel to some other point on Norton Sound, other than Nome?

A. Most emphatically no, sir. I would not have gone on her any further.

Q. You were not considering going to Golofnin Bay or York?

A. No, sir; I was considering getting off at the earliest possible moment.

Redirect Examination.

Q. (Mr. CARROLL.) What, if anything, occurred on the voyage from Seattle to Nome in the way of giving relief to any other vessel?

Mr. GORHAM.—I object as not proper redirect examination. We will not dispute but what the “Valencia” attempted to succor the “Rosecrans”; in fact, we will show it. We will call the captain, and the captain will admit that an effort was made to succor the United States transport “Rosecrans” off the mouth of the Yukon river.

A. I would like to explain a little—

Mr. GORHAM.—I object as not proper redirect examination.

Q. (Mr. CARROLL.) Now, what did this relief of the “Rosecrans”—what occurred during that time that the relief was attempted, if anything, to endanger your vessel?

Mr. GORHAM.—I object as not proper redirect examination. This was not gone into on cross-examination.

A. At 1:25 P. M. of June 14th we sighted the “Rosecrans” flying a signal of distress. Our ship was headed towards her and when within a mile of her she was put under a slow bell—that is, half speed; and the quartermaster was ordered to heave the lead. He threw it and I stood right by the side of him and he made the first throw and he says, “A deep four,” which was twenty-four feet—that is, four fathoms of six feet each. The next throw was a second four, the next was a half three, or eighteen feet, and she ran right down; and he kept on throwing the lead and she ran right down to three fathoms or eighteen feet. We were drawing seventeen and a half feet astern. The propeller then was throwing up the mud, and we kept right on our course until we got up within a hundred yards of the “Rosecrans,” when our vessel went hard aground and whirled right around and the starboard side was hard aground in about fifteen feet of water. We went aground and the captain just walked the deck and swore. I was scared nearly to death. We had only accommodations to save less than a third of our passengers. I was a cripple so that I could not fight my way.

Q. Never mind about this; we want you to detail what happened to the vessel.

A. She went hard aground.

Q. How long did she remain there?

A. She remained there, I guess, for a period of ten minutes until the captain got sober. He was pretty full

when she went aground and the fright scared him sober, him and the mate both. Then he ordered every passenger forward and we all went forward among the hawsers, and he put his engines astern and he worked his rudder first to port and then to starboard; and then finally she began to swing and she got to moving, and finally she backed off and he threw up his hands and said, "Goodbye, Mr. Rosecrans, I will see you in Liverpool. Hunt your own way through Behring Sea, damn you." We backed out about a mile and turned around, and he gave her a full head of steam and ran her south about sixty or seventy miles, where we found the "Nome City" at anchor.

Q. Do you know of any petition having been presented to the captain during that voyage by the passengers of the vessel, other than the petition that you have spoken of?

A. Yes, sir, there was one. It was not a petition; it was a letter of commendation. I have seen it on board the vessel; I have seen it in an attorney's hands there.

Q. What was the occasion of that commendation, if you know?

A. Well, the first-class passengers who had been treated to everything they wanted, all the water and all the food that they could ask for, after they got out of that scrape, that grounding scrape, they were so elated to get out of it that they made up a purse of one hundred and fifty dollars and got up this letter of commendation of the captain, eulogizing him for his great seamanship when he went broadside on a sandbar, in broad daylight

with the lead going, making a great man in their estimation of him.

Q. You say that they gave him a purse of one hundred and fifty dollars?

A. He took that money. Yes, sir, the "Valencia" people did that.

Mr. GORHAM.—Only first-class passengers signed that letter of commendation?

A. I do not know of but one other, Mr. Butterfield; he signed it.

Q. Did you see other persons sign it or not?

A. No, sir.

Q. You do not know who signed it?

A. I seen the petition going around?

Q. You do not know who signed it?

A. Not all of them; no. There was very few in the steerage that would sign it. There are always some suckers in any crew of men.

(Testimony of witness closed.)

I. R. BIRT, recalled for further cross-examination, testified as follows:

Q. (Mr. GORHAM.) Were you subject to seasickness?
A. No, sir.

Q. Were you seasick on this voyage?

A. No, sir.

Redirect Examination.

Q. (Mr. CARROLL.) Mr. Birt, on the voyage you are complaining of, was there any particular occurrence on board of that vessel that attracted your attention, and if so, what was it?

A. On the evening we left Seattle the captain and a young quartermaster, about twenty years of age, got into a fight on the bridge—

Mr. GORHAM.—I object to this testimony as incompetent, irrelevant, and immaterial, and not addressed to any of the issues of this case, and as unnecessarily cumbering the record.

Mr. CARROLL.—The object of this testimony is to show the unnecessary and the wanton cruelty produced upon this individual—that is to show the general disposition of the master of this vessel.

A. They got into a row on the bridge, on the starboard side, and the captain knocked him half the length of that bridge into the wheelhouse door, and then he grabbed him and jerked him out, and he welted him three or four times in the face, until the blood streamed down over his uniform, and he put him out on the starboard side and compelled him to stand there with the blood dripping down over his uniform, a most revolting sight, and kept him there three hours to the gaze of the entire seven hundred passengers that were on board of that ship. One of the quartermasters, a friend of the unfortunate boy, wet a towel and took it up to him to wash his face and the front of his clothing, and the captain drove him down and kept the poor fellow standing there.

(Testimony of witness closed.)

At this time further proceedings were adjourned, to be taken up by agreement.

October 30th.

Continuation of proceedings pursuant to adjournment.

Mr. CARROLL.—It is agreed that this testimony shall be considered in the case of Birt against the steamship “Valencia,” No. 1805, as well as in the case of Porterfield et al., against the steamship “Valencia.”

JOHN T. GRISMORE, produced as a witness in behalf of libelant, being first duly cautioned and sworn, testifies as follows:

Q. (By Mr. CARROLL.) Your name is John T. Grismore? A. Yes, sir.

Q. You are the same person who has heretofore testified in the case of Grismore against the steamship “Valencia”? A. Yes, sir.

Q. Are you acquainted with A. C. Porterfield?

A. Yes, sir.

Q. Do you know Charles Scott? A. Yes, sir.

Q. Do you know James L. Morris, Frank J. Murphy, George Sanders, and Richards L. Lewis, the other libelants in this case?

A. I might know them if I would see them, but I don't remember them by name. There are a number of people I know by personally seeing them but I should not know them by name. There is lots of people that I meet every day that I would know if I would see them, but I don't know their names.

Q. You were on the steamship “Valencia” during her voyage from San Francisco to Cape Nome between the 26th of May, 1900, and the 17th day of June, 1900?

A. Yes, sir.

Q. You may now state what you know about the condition of the steerage or apartment allotted to what was called the second-class passengers during that voyage.

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent, and not addressed to any of the issues of this case.

A. Well, the steerage was, as I have said, overcrowded; there was about two hundred and forty men down there where there should not have been more than a hundred for convenience. There was no ventilation except by the hatch. There was no port holes on the side. There was a few incandescent lights; I will try and count them as best I can. I think in all there was eight or nine lights; I am not positive, but I think in all I don't think there was over nine. There was three electric motor fans, to the best of my recollection, and I don't think that they would measure over—not over fourteen inches, possibly nearer twelve; I don't think the blades were over six inch blades. I have examined and looked at a number of them and, I saw those placed in there when she was fitted up for a transport ship to carry soldiers, and I don't think they were to exceed a fourteen-inch blade. The steerage was not properly kept clean. It was—when we first started out there was attempts made to sweep it out, but there were so many people there and so much in the way that they could not do so, and they swept a little around the tables and the boxes where the people would vomit—the vomit boxes, were simply awful, coming up from San Francisco; and they stood in there until we came into Seattle from very shortly after we passed the Heads, before it was cleaned; and there was three bunks high, fur-

nishing you own blankets, they furnished the pillow and the mattress—I don't know what kind of material it was made of; I think it was what they call—I can't tell you the name of it now, and I know the name of it too. The food that they received was improperly cooked, improperly served, not clean, and many times the meat was spoiled and not enough of it. Now, the food was for sale, as I had bought it myself off nearly any of the waiters and cooks, and also in the mess-rooms. I was served there the same as anyone else by paying for it; it was no secret to anybody at any time. The officers of the ship must have known it unless they shut their eyes and didn't see. There was a great deal of discontent among the passengers from the very first day we started; from the first meal that was served down there before we came here there was a petition signed by a great many of them; I know that I signed it, and presented to the captain, which will have quite a bearing on the case if they ever show it. I forget if I stated everything; I wish you would prompt me about anything you want to know.

Q. What was the purport of that petition which you speak of or that complaint to the captain which you have spoken of?

Mr. GORHAM.—Objected to as not the best evidence.

A. It was praying for some food, if I remember right, better cooked and more service—that is, that the service was inadequate to perform their duty.

Q. Now, what have you to say about the ventilation?

A. The visiting of the officers below?

Q. No, the ventilation.

A. There was no ventilation at all except by the main hatch; there was not a port hole on that side of the ship. It is two decks below where they are supposed to carry any freight and where they never carried any freight until they went to Manila, and the whole world knows what they had to say about that.

Q. What arrangements, if any, were made about air fans?

A. Well, these air fans were put in there, or ones just like them when that ship was a transport, because I saw them placed there, because I was working aboard the ship at the time.

Q. Were they in operation on this voyage?

A. A part of the time they were out of order and they did not run; I don't know the cause, but they didn't run.

Q. Now, state what you know relative to the supply of water.

A. Well, when we first left San Francisco we had two or three barrels of water upon the main deck and I don't know after that of my own knowledge; I never got a drink off one of the help of the ship; I went to one of the first-class passengers who was on board the ship, by the name of McKennon, and I got all the water from him I wanted by going to his stateroom, and that was what he told me about it—that is what he told me to do; I never went the hours that they claimed was water hours at any time.

Q. What was the time fixed for water hours on board the vessel, so far as the hours concerning the steerage and second-class passengers?

A. It was in the morning and in the evening, and at no other time that I know of or ever heard of, because I know the passengers were all about me and they went for water at those hours.

Q. Now, state what you know about the service of your victuals in regard to its relation to the stables and the urine coming from the stables.

A. Well, the steam cooker sat, I believe, on what they call the port side of the ship, and they had these big vessels in there filled with vegetables, potatoes, cabbage or whatever they had to cook, and they would sit the pans along down the deck where we were walking over at any hour in the day, and filled the pans out of the different vessels they were cooked in, and they would set the potatoes or rice or cabbage—they would set one right on top of the other and pass them down the hatch-way to be passed on to the table—I saw it myself time and time again.

Q. These pans then came in contact with the manure from the stables?

A. Yes, sir; I saw them come in contact with that seepage water, or the urine that would leak down from the stalls, come right down on the deck of the ship, just follow the seams right down—sometimes the ship would roll a little and it would run across from one board to another—across from one seam to another—that is what I seen.

Q. Now, what steps, what action, if any, was taken by the captain or his officers, to remedy the complaints that were made?

A. I never knew him to take any steps in regard to it.

Q. When this petition was presented to him complaining as you have stated, did he do anything?

A. I never saw he done anything he promised. I did not present the petition and I was not with the man who did present the petition, but he promised these men that he would right the things that were wrong, but it only got worse when we left Seattle. It was never any better, but only going from bad to worse, as far as I could see.

Q. State what you know, if anything, about the scarcity of water or the hardships the passengers suffered by reason of it.

A. I heard them complaining that they wanted water lots of times—that is, from the morning hour until night when we didn't have it. I heard them upbraid the ship's crew very rough among themselves. Whether there was a scarcity of water on board or not I don't know. There was always plenty of salt water out of the ocean to wash in, and there was never anything else from the time we left San Francisco until we got to Nome at any time.

Q. Then you had to wash in salt water during the whole voyage?

A. I never knew anything else except on a few occasions I did get some water in a pan from the men who watered their stock. That was the only time I ever saw any fresh water for washing, and that was not a half a dozen times.

Q. How long at a time, if at any time, you were detained on board the vessel after you arrived in Cape Nome?

A. Well, we arrived there, I think, about nine o'clock at night, or it would be night; of course it was light yet;

and we got off the next morning, I think, about nine o'clock.

Q. Were you supplied with breakfast that morning?

A. No, sir.

Q. Were any of the passengers in what is called the second cabin or steerage department supplied that morning with breakfast?

A. The hatch was torn up—the stairway—and they could not get anything up or down at that table—they tore it up the night before, and I think they unloaded a lighter or barge load of baggage or something like that and sent it ashore, and of course it was all torn up and they could not get the food down there on the tables—it was impossible for them to do so.

Q. They got no food that morning then?

A. I didn't.

Mr. GORHAM.—I move to strike out the answer of the witness as not responsive to the question and not material to the issues in the case.

Q. Do you know whether any of the others got any?

A. I don't know if any of the others got any.

Q. If they did receive any breakfast that morning would you know it?

A. I would have known it if there had been breakfast served in that part of the ship.

Mr. GORHAM.—Move to strike out as not responsive to the question.

Q. Now, what, if anything, do you know about the detention of baggage and the detention of freight on that vessel?

Mr. GORHAM.—Objected to as irrelevant, immaterial, incompetent, and too vague and uncertain, and not addressed to the issues in this cause unless it is some particular freight or baggage.

Q. The freight and baggage pertaining to that ship and more especially pertaining to the passengers in the department with you.

A. Well, I do know that I had no freight to be detained, and I did not bother my head much about it. I heard several complaints from the passengers, but I know the baggage was not all delivered at Nome on her first calling there. For I know other passengers besides myself that did not get their baggage for sometime afterward.

Q. Now, you say you worked on the steamship "Valencia" in fitting her for the Government?

A. Yes, sir, I did.

Q. You know something about the location and arrangement of her stalls, do you?

A. I know where they were. They were no stall on it when she was a transport; they were put on afterwards.

Q. Now, the stalls you spoke of where the animals were, can you describe their location with relation to the cooking department, where the steam cooking apparatus was?

A. Well, they were adjacent to the cooking apparatus and right alongside of it, just two or three steps from the first stall to the cooking apparatus.

Q. Now, what was there between the stalls and the cook stove or kitchen to prevent the droppings and urine

from the animals from spreading out on the deck, in the space between the kitchen and the stalls?

A. The horses were each in a stall by themselves. There was nothing to prevent the urine or anything from running down there; it would run off either through the bottom of the rough floor that they had made on the deck or over it, and run down there, and just as much would run down towards the cooking apparatus as would go the other way. There was no reason—there was nothing to hinder it, because the line of the ship pitches from forward to aft, and anything in the shape of water that would flow on the seams, would follow the seams—these seams not always being fully pitched up to the level of the deck and it would run off until it would get a chance to run off—you could best tell that by going and looking at the ship. There was two deckloads of horses, one on the hurricane deck or first deck and then on the main deck, one above the other, and then the passengers were below that.

Q. Was there any complaints made at any time in regard to salt?

A. Many times; that is, we complained among ourselves, we complained also to the steward.

Q. What was the character of that complaint or the cause of that complaint?

A. It was half sand; I should judge it was half sand, if you got it between your teeth; I know that I undertook to use it and I had to leave off using it altogether.

Q. How often did you see the first or second officer or captain or any of the officers visit the steerage department?

A. I never saw the captain down there after we passed Seattle. He made his eleven o'clock inspections before he got to Seattle each day, he and the steward. I never saw him down there more than four or five times; I think five times would be the limit, from there on into Nome. And he came down there when there was a riot brewing on two or three occasions, and I never did see him make an inspection. I never did see him more than at the foot of the steps, and at one time he came down and only stopped on the steps about two-thirds of the way down. I saw the steward down there; I could not tell you how many times; it was not very many, three or four, times—I don't think it would be over that—to see Brady, and that was the only occasion he came down there. Brady was the steerage steward; I saw him talking to him and that was all I know about it, and I never saw him there any other time. I never did see the purser down there except when he took up the tickets after we left San Francisco. After we left Seattle, and after we left Dutch Harbor, he inspected the tickets to see that nobody had got on who didn't have a ticket. You had either to show him a ticket or your purser's check. I never saw him there any other time and I don't think he ever was down there. If he was I never heard of it. The first officer, McKenna, he came down there a good many times. I saw him there more than any of the rest of them. He came down and would settle disturbances at one that I know of, and I don't know what his other business was down there. The second officer, I never did see him below, I can't recall a single instance that I ever saw him below down there in the quarters. I saw him on the main deck, but I never

did see him below in the quarters at anytime. I can't recall one single, solitary instance where I can ever remember seeing him there.

Q. How about the occurrences in the morning when they would be washing off the decks in regard to the water or dirt coming down amongst the steerage passengers?

A. Well, I told you the steerage passengers slept near the hatchway and often we would wake up and curse and swear because they throwed water on us. I know that it would strike on the deck and then it would go over into the steerage—down the companionway, and there was more or less filth carried with it. You would always know when they were washing the stalls out by the horses commencing to kick, and that would wake you up until they got through with that business—when they were turning the hose on their feet.

Cross-Examination.

Q. (By Mr. GORHAM.) You never took the pains to see what the hours were for procuring fresh water for drinking purposes?

A. No, sir; I never did. I often heard them say—

Q. I would like to have you answer my question, if you please.

A. I never had occasion a single, solitary time.

Q. Do you know that they had it posted up there in writing, the hours designated?

A. I never seen such a notice.

Q. Do you know it? A. No, sir, I don't.

Q. Then you don't know of your own personal knowledge whether they had three, two, or five times during

the day when they could receive water, of your personal knowledge?

A. Not of my personal knowledge.

Q. In reference to the baggage being delivered at Nome, you haven't any personal knowledge as to when all of it left the ship?

A. No, sir, only about my own.

Q. Only about your own?

A. My own and some of my friend's and neighbor's that were by me; I know about them.

Q. You know whether they got it or not?

A. I do.

Q. But you don't know as to any of those who claimed not to have received their baggage—you don't know whether it had left the ship and gone on the beach at the time they claimed they had not received it, or whether it did not, of your own personal knowledge?

A. No, sir; I do not.

Q. So you can't swear that the baggage was not all delivered on the beach from the vessel at Nome upon her first arrival there and before she went to Golofnin Bay or York?

A. Yes, I can say that it was not all delivered.

Q. Did you go on board the vessel afterwards?

A. No, sir.

Q. Then how do you know?

A. Because I did not receive my own and I was watching for it all the time.

Q. How do you know it was not delivered on the beach?

A. Because I was there and seen every lighter that came on shore and saw every piece of baggage, and stayed there and watched the men carrying from the

lighters up—every piece of baggage, and was hoping and wishing to see my own, and then the next time she came back from Golofnin Bay I got it on the evening, I think.

Q. Did you go down there and see the lighters come in?
A. I did and I was there.

Q. Did you see it come off the lighters? A. Yes, sir.

Q. Your own baggage? A. Yes, sir.

Q. On the second trip?

A. When she came back from Golofnin Bay. It never went inside of the tent. They piled it up on the outside and I gave them my check.

Q. How long was that after she left Nome the first time?

A. Well, I didn't keep any record, I think it must have been four or five days. She was at Nome, I think, about three days before she went to Golofnin Bay.

Q. You don't know how long she was delayed at Golofnin Bay?
A. No, sir.

Q. You don't know how long it took her to get there?

A. No, sir.

Q. You don't know how long it took her to get back from there?
A. No, sir.

Q. You think it was five days?

A. I think it was five days.

Q. You don't know?

A. I don't know but I think it was that, to the best of my recollection.

Q. Now, where was your berth, relative to the opening in the hatch going down in the steerage quarters?

A. It was just as I came down the hatch.

Q. Where was your berth?

A. I was on the starboard side of the ship and outboard.

Q. And there was another tier towards the center of the ship alongside of you? A. Yes, sir.

Q. When they washed the decks down you stated that more or less filth would come below?

A. Yes, sir, from the hose that would play on the deck.

Q. How much, more or less?

A. I could not tell you that—I have no way of knowing.

Q. You have libeled this steamship for damages for similar cause of action to Mr. Porterfield? A. Yes.

Q. That suit is now pending and undetermined in the District Court? A. Yes, sir.

Q. The same court as this? A. Yes, sir.

Q. Did you ever personally complain to the master of lack of proper food?

A. No, sir, I complained to the first officer.

Q. Did you hear the master offer to reward any person who would expose the sale of food by the crew of the ship?

A. I heard him say that he would give five dollars to any man who would bring him the man that would sell food on that ship.

Q. Did you buy food after that?

A. I did, sir.

Q. Did you expose that man to the captain?

A. I did not.

Redirect Examination.

Q. (By Mr. CARROLL.) What reasons, if any, did you have for not exposing that man to the captain?

A. I thought it would be unmanly, and besides I think I should have gone shorter of rations than I did go.

Q. In others words, if you reported, you would have been cut off from your purchases?

A. Yes, sir; that's right. If I exposed the man I would have been cut off from buying any more, and probably have been blackballed and have a bad name among the passengers of the ship, which I didn't want.

Recross-Examination.

Q. (By Mr. GORHAM.) The less food there was sold the more there would be to go on the table—and if none were sold it would all go on the table?

A. I don't know.

Q. You did not try that plan, did you?

A. No, sir; and no one else did.

Q. You stood in against the master and against the master's protest, and continued to purchase food of the ship's crew?

A. I never bought anything until I had to—until I was compelled to do so from hunger.

Q. I say you stood in against the express wishes of the master and purchased food from the ship's crew?

Mr. CARROLL.—Objected to as irrelevant, immaterial, and incompetent.

A. No, sir, I did not view it in that light.

Q. I didn't ask you how you viewed it; I asked you what the facts are.

A. No, sir; I don't think it would have been any different.

Q. I don't care what you think; I am not asking you what you think; I say the fact is that you heard the captain offer a reward for the exposure of the sale of any food? A. I did.

Q. Now, the fact is that subsequent to that you bought food of the pantry boys and stewards?

A. Yes, sir, the stewards and cooks and waiters, anybody, and also in the ship's galley where the petty officers were.

Q. And you continued that generally?

A. Yes, sir—I could not get anything to eat any other way.

Mr. GORHAM.—I move to strike out the last answer as not responsive to any question asked by me and stating a mere conclusion of the witness, and not a statement of facts.

(Testimony of witness closed.)

C. F. WELDON, produced as a witness in behalf of libelant, being first duly cautioned and sworn, testifies as follows:

Q. (By Mr. CARROLL.) What is your name?

A. I bought my ticket in the name of Charles Scott and traveled on that ticket.

Mr. GORHAM.—Before we start in with the examination of this witness I desire to ask some question preliminary to any examination.

Q. (By Mr. GORHAM.) What is your name?

A. C. F. Weldon.

Q. Are you a libelant in this case? A. Yes, sir.

Q. Is C. F. Weldon your true name?

A. Yes, sir.

Q. Where do you reside? A. Oakland.

Q. California? A. Yes.

Q. How long have you resided there?

A. About ten years.

Q. What is your business?

A. I was contractor and builder and I held the office of constable.

Q. You mean builder of frame buildings?

A. Yes; frame buildings.

Q. And you are offering yourself as a witness in your own behalf? A. Yes.

Mr. GORHAM.—We object to the testimony of this witness for the reason that there is no C. F. Weldon, a libellant in this cause.

Q. (By Mr. GORHAM.) I will further ask you why you purchased your ticket in the name of Charles Scott?

A. I was constable there for four years—

Q. Remember, Mr. Weldon, this thing is not anything personal. I am not trying to inquire into any private affairs, but simply speaking for information.

A. There is nothing but what I am willing to tell. I was constable there for four years and as I went along at my duties as officer I had more or less suits, as I would attach property, they would sue the constable, and the constable would inquire of the parties whom I served the papers for, for indemnity bonds, and there were some of those suits pending which I considered of no consequence, where they had no cause of action but were still

pending. Well, I wanted to go to Nome and if I bought my ticket in the name of Charles Weldon or C. F. Weldon, they would have known I was going away; therefore I simply bought it in the name of Charles Scott, so that they would not serve me with notice before I got away to detain me and to try to get a settlement out of or to get twenty dollars out of me or the other parties, and detain me from going on my trip. That was my reason for getting the ticket in the name of Charles Scott which I traveled on.

Q. Is that the only reason?

A. That is the only reason, I believe.

Q. Well, do you know?

A. Well, I know it is—I know it is.

Q. Did you sign your name to this libel?

A. I signed my name as Charles Scott.

Q. You signed your name as Charles Scott?

A. Yes, sir.

Q. And you swore to it before a notary as Charles Scott?

A. I don't know but I did—it was the name I went by.

Mr. GORHAM.—We renew our former objection to the testimony of this witness on the same grounds.

Q. (By Mr. CARROLL.) You bought your ticket as Charles Scott? A. Yes, sir.

Q. What was the character of that ticket, as to your passage, first or second class?

A. It was second class. I went to the office to get a ticket, a first-class ticket, and they said they had none. I said, "I want a first-class ticket," and they said that

the second-class ticket is almost as good as the first-class ticket—they would just as leave travel on the second-class ticket as a first class, for we would be on the same deck with the first-class and would eat at the second table in the first-class passage, and I paid them seventy-five dollars cash for my ticket, under the understanding that I was to have the best birth in the middle of the ship, and I went to get my berth and they sent me to the other office and I got what I could get.

Q. You hadn't been on board the ship at that time?

A. No, sir.

Q. Now, did you sign any papers with the vessel or its officers when you secured your ticket as Charles Scott?

A. I signed my ticket.

Q. You traveled on that vessel as Charles Scott?

A. Yes, sir.

Q. As such you were known to the officers?

A. I suppose so; yes.

Q. As such you were known on the register of the vessel? A. Yes, sir.

Q. As a passenger?

A. I was known by other people as C. F. Weldon on the vessel, but I don't know as any of the officers knew me by any other name than Charles Scott.

Q. And having been registered on the vessel as a passenger under that name of Charles Scott, you brought this suit? A. Yes, sir.

Q. For the purpose of identifying yourself with that vessel on that voyage? A. Yes, sir.

Q. That is the only purpose of using the name you traveled under as a passenger? A. Yes, sir.

Q. Now, state what you know of the condition that prevailed in what was allotted to you as a second-class passenger, the apartment.

A. I bought my ticket and took my hand baggage—well, first I took my chest down that day and got my chest checked by freight, or what they call baggage. It was something over the limit but I paid the extra one dollar and twenty-five cents over. I took my hand-baggage and went on the boat and they put me down in section B, in the bow of the boat, back one bunk, in the bottom bunk, one bunk from the end next to the cook stove or steamers, where they washed the dishes and made coffee and washed dishes, what they clean off the table into, great big pan which is about two foot four inches high and three foot long, and it sat in front of my bunk. They cleaned off the old meat, potatoes and potato peelings and everything off the table—it just had a little rail around the side and there was a corner and they scraped it out through that and they set the pans in front of my bunk. Did you ask me for the condition of the victuals?

Q. Yes.

A. They were improperly cooked and improperly served and some of the meat was spoiled. The water for our washing purposes was salt water. I got some fresh water until I was stopped from getting fresh water by the steward, in some of the barrels admidships. They had a notice up there; it read that the water would be served to the passengers between four and five and seven and eight in the morning, signed by the steward on a piece

of paper like that (showing), a blue paper—wrote with an indelible pencil and stuck up on a post there. The water tanks—the little hand tanks were emptied the first day that we left the city, and they did not have any more water out of those tanks; I got water, fresh water—all the fresh water that I got was out of the barrels amidships from there for the rest of the voyage.

Q. Now, what about this complaint that was made to the captain between San Francisco and Seattle, if you know anything about it?

A. Yes, sir; they brought around a petition; I am pretty sure I signed my name as Charles Scott, the same as my ticket called for; I would not swear to that—I wouldn't swear that I signed the petition, but I think I did, asking the captain to give us better service and more victuals.

Q. What relief, if any, was given you after that petition or complaint was served to the captain?

A. They put a stowaway as an extra waiter to help the steward—the second or third steward—I don't know what they call him.

Q. Was the condition bettered?

A. A little better as far as the waiting—the victuals were the same.

Q. Now, what have you to say in regard to the cleanliness and the method in which the dishes containing your victuals were handled.

A. It was very dirty. There was at the end of the hatchway where the stairway came up, about four feet from there was that big steam cooker to cook the pota-

toes and meat, and they would bring the pans up there and throw them on the floor, and the seepage from the horses, which was no more than four or five feet away, would drain under on this deck which was pitched from the bow to amidships, and from the center of the ship aft or to starboard, and the second-class passengers would walk above the horse stalls into the water-closets, dragging the urine, which was all over the floor, and vomit, would walk back through here and cross where they set those pans; they would empty a pan of meat in there or a pan of potatoes and stack them up and hand them down the hold, and they would take one pan and shove it along the table and it would slide, and that was the way we got our victuals. As to the electric fans, I fixed one of the electric fans myself, it was loose, and it would not run,—the spindle ran, or would run, but the fan was loose and I took it and wedged it so that it would run.

Q. Were they in operation all the time?

A. No, sir, not all the time; this one fan that was up above my bunk was stationary and broke down on several different occasions.

Q. Was it attended to immediately it broke down?

A. No, sir; it was one or two days before it got to running well.

Q. What were the facilities below for ventilation and light?

A. Very poor; nothing but the hatchway.

Q. The light came from the hatchway above?

A. Yes.

Q. How did the ventilation come down, through fans or funnels?

A. Through the fans and the hatchways.

Q. Were there air funnels?

A. There was an air funnel in front; yes.

Q. Was that kept open all the time?

A. I don't know as to that; I could not say. I was in the other end of the apartment.

Q. What was the effect of this effort at ventilation below. A. Well, it was hot and muggy.

Q. Was the temperature hot below? A. Yes.

Q. Above normal? A. Yes.

Q. What steps or efforts were taken or made to keep clean the steerage?

A. There was none to clean out the pans which were vomited in. I know the man next to me; the vomit was in his pan for a day and a half until I had to empty it into this old slop bucket, as they went to carry it off—this old slop pan that set in front of my bunk. He was very seasick and he was not able to get up, and I took and emptied his dish which for there forty-eight hours and which smelled and stunk, and as the men got up in the morning there were , and throwing their blankets off, and the victuals right in front along in front of you for a space of about four foot six inches or four foot from my bunk was the table—and that was where the victuals were placed, and the men getting out here it stunk, and the salt that we got to put on our potatoes, which was the only thing I could eat on the voyage except the bread—sometimes we had very good bread, and

the butter was very good—but the salt was horrible; it was sand and salt together. I used a good deal of salt on the potatoes and I got choked, and it seemed to stay there for a day and a half—I could not get it out of my windpipe.

Q. Now, about the closets.

A. The closets were very filthy—they were washed out in the morning—at four or five o'clock and then they were not washed until the next morning, and the water, as the ship would sail sideways to the waves and the wind, she would rock or list over and as she did, on the upperside the water did not run, and it made it very filthy, and the closets were very small and they would overflow on the floor. They had a little, round seat, one of those patent closets, and that would make the closet so that they would strike on each side—and that was left until the morning, as it was washed out in the morning. I went into the water-closets once and it was dark, and I sat down on the seat and I got all daubed, and I had a horrible time to clean, one time in particular.

Q. Now, what have you to say as to the inconvenience of those passengers in that department for washing down the decks in the morning.

A. Well, they would wash down the decks and they would come up and throw their hose up against the wall—there was a little railing around the hold, probably four or six inches, and it would strike the railing and it would go over into the hold on the dishes and the people that was below and that would scatter—I got a ducking once myself when I was coming upstairs.

